

# **Exhibit L**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:12-CV-00610-F

C O P Y

CITY GRILL HOSPITALITY GROUP, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 ) D E P O S I T I O N  
NATIONWIDE MUTUAL INSURANCE COMPANY, )  
 )  
Defendant. )  
----- )

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STEPHEN EDWARD STONE

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202 Fairway Drive  
Fayetteville, North Carolina

Friday, July 19, 2013  
1:37 o'clock p.m.

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Atlantic Professional Reporters  
Winston-Salem, NC 27116-1672

[illegible]

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<p>1 The witness, STEPHEN EDWARD STONE, being  2 first duly sworn to state the truth, the whole truth  3 and nothing but the truth, testified as follows:  4 (1:37 o'clock p.m.)  5 EXAMINATION  6 BY MS. DALY:  7 Q. My name is Rachel Daly, and I have been  8 retained by Nationwide in this matter.  9 Have you had your deposition taken before?  10 A. Yes, I have.  11 Q. Just a few things.  12 If you need a break, let me know. The  13 only thing that I ask is that you answer the question  14 that's on the table.  15 Other than that, if you don't understand  16 my question, please let me know and I'll rephrase it.  17 A. Okay.  18 Q. Will you state your full name for the  19 record.  20 A. Stephen Edward Stone.  21 Q. You provided us a copy of your CV. Is  22 this your most up-to-date CV?  23 A. It is.  24 Q. Generally speaking, have you ever been  25 disciplined by any professional board?</p>	<p>1 basis?  2 A. I -- I lead the -- the technical team, the  3 engineering team responsible for design, validation,  4 qualification, of the STOVL propulsion system for  5 that aircraft.  6 Q. And what is the STOVL?  7 A. I'm sorry. It's short takeoff and  8 vertical landing.  9 Q. Are you more in an administrative role at  10 this point in your career, supervising others?  11 A. No. It's very much a hands-on design  12 validation effort.  13 Q. What else do you do in that position on a  14 day-to-day basis?  15 A. Well, let's see. We're running a very  16 aggressive flight test program, so on any given day  17 I'm looking at airworthiness issues, signing the  18 flight test letters, the things that we need to do to  19 be able to go from flight testing the aircraft,  20 progressively pushing out the envelope until we can  21 verify the full flight test envelope.  22 So airworthiness is a big part of what I  23 do, as well as leading the design and validation  24 effort on the STOVL system.  25 I also, as you'll see in the CV, we've got</p>
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<p>1 A. No.  2 Q. And have you ever been terminated from a  3 position?  4 A. No.  5 Q. Have you ever been laid off from a  6 position?  7 A. No. Of course we're going through  8 sequestration and furloughs right now, right, the  9 government. Fridays are furlough days for 11 weeks,  10 but that's not a layoff. That's a furlough.  11 Q. Let's talk about your current position.  12 It states that you are the principal  13 engineer for Stone Engineering, Incorporated.  14 A. Yes.  15 Q. And do you have any other employment other  16 than being the principal engineer at Stone?  17 A. Yes.  18 Q. What is your other employment?  19 A. I'm employed with the government.  20 Q. Okay, and what do you do for the  21 government?  22 A. In my current position, I'm the STOVL,  23 S-T-O-V-L, chief engineer for the F-35B aircraft  24 program.  25 Q. And what are your duties on a day-to-day</p>	<p>1 aircraft fielded now so we're just standing up the  2 in-service engineering aspects of that, so I'm also  3 helping to lead that effort through the expansion of  4 limits, technical repairs and all that. It all sort  5 of funnels back to me on the STOVL system for the  6 overall technical responsibility.  7 Q. In that position, how often do you have to  8 look at a product to determine whether or not there  9 was an electrical failure that caused a fire?  10 A. In that particular application, not very  11 often. We have -- well, actually, not at all,  12 because we haven't had any electrical fires in the  13 F-35B in a propulsion system.  14 Q. So in your entire time in that position  15 you've never looked at a product to determine whether  16 or not there was an electrical failure that caused a  17 fire?  18 A. On the F-35B propulsion system, which I've  19 been involved with since 2010, yes, ma'am, that's  20 correct.  21 Q. What were you involved in prior to 2010?  22 A. Prior to that point I was the senior  23 in-service engineer for the Navy for STOVL  24 propulsion.  25 Q. And how long were you in that position?</p>

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1 A. I believe -- I'll just check my CV here.  
2 I believe I started that position in 2006,  
3 and then I transitioned out of that in 2010 to take  
4 up the chief engineering position on the F-35 STOVL  
5 system.

6 Q. And during that period of time, the  
7 2006-2010, how often were you looking at a product to  
8 determine whether or not there was an electrical  
9 failure that caused a fire?

10 A. The only times I would have done that  
11 would have been during aircraft accident  
12 investigation, of which I did quite a few working on  
13 a STOVL platform. Unfortunately, we crashed a few of  
14 those.

15 So you're always looking back through the  
16 wreckage, trying to work out sequence of events for  
17 -- as you started to lose systems -- in-flight fires,  
18 I've looked at stuff for that, too, in that position.  
19 That's probably the gist of it there.

20 Q. How many did you look at? You said quite  
21 a few.

22 Is that three, five, what ---

23 A. --- Oh, that's probably -- let's see.

24 As a senior in-service engineer from 2006  
25 to 2010, probably more than five, less than 15,

1 in-service engineering engine controls lead for the  
2 Navy.

3 Q. And that's from 1987 to 2006?

4 A. From 1995 to 2006. I was the senior  
5 in-service engineer for that time period. Prior to  
6 that, the period you referred to, '87 to 2006, would  
7 have been just the lead engineer for the T45 and the  
8 AV8. I was dual-added for part of that. That may be  
9 part of the confusion.

10 As I picked up the new in-service  
11 engineering lead position, I also held the previous  
12 as well.

13 Q. Let's do 1995 through 2006.

14 How often were you looking at a product  
15 failure to determine whether there was an electrical  
16 failure that caused a fire?

17 A. Again, it would just go back really to the  
18 aircraft mishap investigations. But the exact  
19 numbers, I don't have.

20 I mean, I was involved with the Harrier  
21 program for 26 years, so -- you know, I've looked at  
22 a lot of crashed Harriers. I don't know exactly how  
23 many between '95 and 2006.

24 Q. Okay.

25 A. I'd have to go back and pull out my

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Page 13

1 somewhere in that ballpark. Because as the senior  
2 in-service engineer, even if the other guys were  
3 doing the investigation, I would still ultimately get  
4 rolled in for oversight.

5 Q. So does that mean you would not have  
6 actually physically looked at the evidence yourself?

7 You would have looked over somebody else's  
8 end product of their determination of the incident or  
9 ---

10 A. --- No, typically I would be wading  
11 through parts.

12 A big part of that is reconciling all of  
13 the damage in failures that you have and work that  
14 back to what you believe the most probable cause was.  
15 So it's a lot of systems and things you have to work  
16 through.

17 Q. And you believe there could have been  
18 upward to 15 crashes during that four-year period of  
19 time?

20 A. No, let's drop that down to 10. There  
21 were probably under 10. So between five and 10 is  
22 probably right for that four-year period.

23 Q. Prior to that period of time what were you  
24 doing?

25 A. Let's see, before that I was the

1 records.

2 Q. And other than crashes during that period  
3 of time, would there have been any other scenario  
4 when you would have been looking at a product to  
5 determine whether there was an electrical failure  
6 that caused a fire?

7 A. An actual fire in the aircraft, no.  
8 Electrical failures, yes, but not fires.

9 Q. Since 1987 what would you approximate the  
10 amount of crashes you worked on during your career  
11 with the government?

12 A. Well, really, it would go back to 1984.

13 Q. Okay, 1984....

14 A. That's when I actually started with them.

15 Q. In crashes where you're looking at a  
16 product to determine whether or not there was a -- an  
17 electrical failure that caused a fire?

18 A. I don't know a number off the top of my  
19 head.

20 And again, this is -- the context of this  
21 would be looking at all of the wreckage, working back  
22 through all the failed harnesses and components, and  
23 trying to understand -- reconcile the damage that you  
24 see.

25 For instance, lots of times there are

4 (Pages 10 to 13)

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<p>1 post-impact fires, so you're always having to look 2 through that stuff to rule it out. But -- I don't 3 know -- certainly more than 20. And it also spans 4 other programs, too. 5 I've done other aircraft accidents as well 6 -- other platforms, F4's, T45's, things like that, so 7 it's quite a bit of exposure to forensic analysis. 8 Q. So would you say more than 20, less than</p>	<p>1 I mean, I obviously, you know, work 2 full-time for the government, and I try not to become 3 overly busy, so I can have some family time. So I 4 deliberately keep this to a reasonable, manageable 5 level. 6 Q. Have you given testimony in any of those 7 cases involving fire investigation? 8 A. For this year?</p>
<p>9 30? 10 A. No. Probably less than about 60 or so 11 would probably be a conservative number, over my 12 entire career. 13 Q. In conjunction with your position with the 14 government, it appears that you have your own company 15 as well, Stone Engineering? 16 A. I do. 17 Q. What types of companies typically hire you 18 in that role? 19 A. Predominantly insurance companies. 20 Occasionally I'll get a case through a 21 lawyer, or rarely, although it does occur, I'll have 22 a case directly from, you know, the general public. 23 Q. And what types of cases do you work on in 24 your capacity as the engineer for Stone Engineering? 25 A. A lot of failure analysis, some accident</p>	<p>9 Q. No, in any of yours, since 1999. 10 A. Yes. 11 Q. Do you recall the names of those cases? 12 A. No. 13 Q. Were they located in Fayetteville? 14 A. I'd have to look at my records to see. 15 Q. Do you keep records regarding the types of 16 cases you work on? 17 A. I keep a -- a testimony log, and then it 18 just rolls -- of course, according to Rule 26, for 19 truncating it to four years. Right? But I keep 20 records. 21 Q. Do you actually keep records of the type 22 of investigation you were performing and... 23 A. I keep a record by case file number that I 24 can then look at and see what the subject was on it, 25 and then without having to go back and pull my</p>
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<p>1 reconstruction, some involvement with, you know, fire 2 investigations. 3 And really, from that perspective, more of 4 a product liability, defect analysis perspective. 5 Q. So since 1999 how often have you been 6 retained to look at a fire investigation? 7 A. It's probably something on the order of 8 about 25 percent of my business. 9 Q. Okay, so in a given year, approximately 10 how many fire scene investigations do you do? 11 A. It -- it varies year to year. 12 Q. Okay, let's talk about this year. 13 Other than this case, how many fire 14 investigations are you doing? 15 A. This is the only one I have open at the 16 moment. I just finished one earlier. I'd say I've 17 probably done three or four this year. 18 Q. Last year, how many did you work on, not 19 including the three to four you just --- 20 A. --- I don't know. 21 Q. --- Accepted this year? 22 A. I'd have to look at my records. 23 Q. Can you give me a general idea? Are we 24 talking three to four, 20? 25 A. Probably three to four range.</p>	<p>1 reports and my case files, I can tell from that what 2 the nature of the work was. 3 Q. When you are hired to do a fire 4 investigation, do you typically go to the scene of 5 the fire? 6 A. Not always. Maybe 50 percent of the time, 7 if that. 8 Q. And if you're not at the scene of the 9 fire, how do you generally go about conducting your 10 fire investigation? 11 A. I actually conduct a fire loads and 12 effects based analysis on the items generated from 13 the fire scene by the cause and origin investigators. 14 So they bring that to me with a very specific 15 question about, you know, we think this might have 16 potential, you know, if you see any evidence of fire 17 causing failures or defects. 18 And then I work the protocols with the 19 other parties as necessary and align on inspection 20 requirements and go from there. So I don't get into 21 the discussion of the fire vectors and the patterns 22 on the wall and all that. I focus strictly on the 23 hardware or the components. 24 Q. So you are not qualified to determine the 25 origin of the fire. Is that correct?</p>

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<p>1 A. Within a room or a structure, no.</p> <p>2 Q. And you are not qualified -- strike that.</p> <p>3 How often do you do your investigation</p> <p>4 based solely on photographs?</p> <p>5 A. Never. But I always have the hardware,</p> <p>6 the evidence, in my possession, and I execute a full</p> <p>7 failure modes and effects analysis on that component</p> <p>8 and then drive an appropriate investigation, and then</p> <p>9 use the evidence to rule in or rule out supporting or</p> <p>10 refuting evidence as necessary.</p> <p>11 In fact, I'm looking for the failure</p> <p>12 effect, which, in this case, would be a fire causing</p> <p>13 failure or defect. But never off of photographs.</p> <p>14 Q. When were you retained for this case?</p> <p>15 A. The 11th of April, 2013.</p> <p>16 Q. And who contacted you?</p> <p>17 A. Trey McLean.</p> <p>18 Q. And what did Mr. McLean tell you about the</p> <p>19 case?</p> <p>20 A. Really, what we discussed was my role in</p> <p>21 it. He said that there was some evidence that had</p> <p>22 already been collected from the fire scene, and that</p> <p>23 there was a joint examination that was going to take</p> <p>24 place on the 17th of April, I believe it was.</p> <p>25 So very specifically he asked me to go</p>	<p>1 A. No. I would say that probably flowed over</p> <p>2 a couple of days. We talked a couple of times,</p> <p>3 spanning the period from the 11th through to the</p> <p>4 17th, from the time I was retained right up until we</p> <p>5 went. So it was over that time frame.</p> <p>6 Q. Anything else mentioned to you besides the</p> <p>7 wireless device?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Were you asked to look at any of the items</p> <p>10 that were at the -- the exam to determine whether or</p> <p>11 not there was an electrical failure with any of the</p> <p>12 other items?</p> <p>13 A. Yes. I was asked to look at all of the</p> <p>14 evidence that was there, so I looked at everything</p> <p>15 that was made available to me.</p> <p>16 Q. And you said you had talked to Steve</p> <p>17 Booth.</p> <p>18 A. I did.</p> <p>19 Q. Did you previously know Mr. Booth?</p> <p>20 A. Yes.</p> <p>21 Q. Did you work with Mr. Booth at some point</p> <p>22 prior to this case?</p> <p>23 A. Not in the same company. I mean, he works</p> <p>24 for Langham &amp; Associates. I rent office space from</p> <p>25 them, so we're co-located, so I've worked other cases</p>
Page 19	Page 21
<p>1 participate in that joint examination, look</p> <p>2 specifically for evidence of a fire causing failure</p> <p>3 or defect in the exhibits provided, and then to</p> <p>4 support the investigation from that point forward if</p> <p>5 any more hardware evidence came up.</p> <p>6 Q. Anything else?</p> <p>7 A. A brief overview of the nature of the</p> <p>8 fire, that it was in a restaurant, just some of the</p> <p>9 general things.</p> <p>10 He also put me in touch with Steve Booth,</p> <p>11 who was the cause and origin investigator. So of</p> <p>12 course Steve gave me some background, which really</p> <p>13 pertained to where the evidence came from.</p> <p>14 Q. Okay, let's stick with what Mr. McLean</p> <p>15 talked to you about.</p> <p>16 Other than going to the evidence exam,</p> <p>17 what else was your role in this investigation?</p> <p>18 A. Well, I was told that this one particular</p> <p>19 component, that there was an HME Ion IQ wireless</p> <p>20 device that was there. I was asked to look and see</p> <p>21 if it was there, and then to -- you know, to</p> <p>22 determine if I could rule it in or out as a potential</p> <p>23 contributor or cause.</p> <p>24 Q. And he told you this on the initial</p> <p>25 contact with you?</p>	<p>1 with Mr. Booth as well as other investigators from</p> <p>2 Langham &amp; Associates.</p> <p>3 Q. How many times have you worked with Mr.</p> <p>4 Booth?</p> <p>5 A. I'd have to check my records.</p> <p>6 Q. Give me an approximation.</p> <p>7 A. Somewhere between five and 10, maybe,</p> <p>8 ballpark.</p> <p>9 Q. Have you ever worked a fire investigation</p> <p>10 with Mr. Booth?</p> <p>11 A. Yes.</p> <p>12 Q. Were all of those fire investigations that</p> <p>13 you've worked with Mr. Booth?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever worked with any attorney</p> <p>16 from McCoy Wiggins prior to this case?</p> <p>17 A. Not that I recall.</p> <p>18 Q. And to date, have you ever been to the</p> <p>19 scene of the fire?</p> <p>20 A. No.</p> <p>21 Q. Have you ever asked to go to the scene of</p> <p>22 the fire?</p> <p>23 A. No.</p> <p>24 Q. You provided an invoice with your expert</p> <p>25 report.</p>

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1 Do you have a copy of that invoice with  
2 you?

3 A. No, ma'am.

4 Q. It states that you researched the HME ion  
5 IQ drive through system components.

6 What did you do to research?

7 A. I researched them online, trying to get  
8 basic design specifications for the unit, as well as

9 the -- you know, the physical dimensions so that I'd  
10 be able to recognize the hardware from that, or the  
11 sub-components, as the case may be, if it was there  
12 to be examined on the 17th.

13 Q. Did you contact the company directly?

14 A. No.

15 Q. Anything else, besides doing online  
16 research?

17 A. No, that was it.

18 Q. It states that you reviewed the  
19 photographs from Mr. Lacy and Mr. Martini.

20 Were you ---

21 A. --- Yes. The ones that were made  
22 available to me, yes, I did.

23 Q. Approximately how many were made available  
24 to you?

25 A. I don't recall. I've got a full CD of

1 supplemental reports that were just made available to  
2 me last night from Mr. Martini and Mr. Lacy. They  
3 didn't make them available. They came, of course,  
4 through counsel, but I did review those.

5 Q. And you received those last night?

6 A. I did.

7 Q. And have you spoken to anyone from McCoy  
8 Wiggins regarding the expert reports?

9 A. Yes.

10 Q. And when did you speak with them?

11 A. A little bit last night, and then very  
12 briefly today.

13 Q. Okay, we'll go through that in detail  
14 later.

15 A. Okay.

16 MS. DALY: Before we do anything  
17 else, if we can go off the record for a few minutes.

18 (2:02-2:08 p.m. - recess)

19 Q. (Ms. Daly) You mentioned having  
20 discussions with Steve Booth leading up to the exam,  
21 evidence exam.

22 What else do you recall discussing with  
23 Steve Booth?

24 A. He gave me some of the background of the  
25 fire from his cause and origin investigation. He did

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1 everything that's been made available to me. I can  
2 find that if I need to.

3 Q. Well, that's one thing that I noted that  
4 your report was deficient, is that the Federal Rules  
5 require you to list everything you reviewed and you  
6 were provided, and you did not do that.

7 Did you bring a list of those materials  
8 and documents today?

9 A. I brought all of the materials and  
10 documents today. I made a full CD of everything that  
11 I reviewed.

12 Q. Let's mark this as an exhibit.

13 (\* Exhibit 1 was marked \*)

14 Q. It's been marked as Exhibit 1.

15 Is there a page, table of contents on  
16 Exhibit 1, or is it simply just the documents?

17 A. Those are simply just the documents  
18 individual files, like Martini photographs, etcetera,  
19 etcetera, that were provided to me.

20 Q. Other than what's been listed on this  
21 invoice, have you done anything else in regards to  
22 this case?

23 A. Let me check my notes.

24 (Witness examined documents)

25 A. Yes, I reviewed -- I guess there were

1 tell me that apparently everyone seemed to be in  
2 general agreement with the general area of the fire  
3 and that the -- the exhibits that we were going to  
4 look at had all been recovered from that immediate  
5 area of origin for the most part.

6 So we talked through, you know, where that  
7 evidence came from, the condition of the fire scene.  
8 He walked me through his photographs that he had  
9 taken as well.

10 Q. Did he walk you through anybody else's  
11 photographs?

12 A. I don't recall. I don't believe I  
13 actually had any photographs available other than  
14 from Booth to start with.

15 I mean, from the time frame of 11 through  
16 17 April, so....

17 Q. I'm talking about between April 11th, when  
18 you were retained, and April 17th.

19 A. Yes.

20 Q. The evidence exam.

21 A. Yes.

22 Q. So, to focus on that time period, anything  
23 else you recall from Steve Booth?

24 A. Not anything that I thought was of  
25 substance to the work I was going to do.

7 (Pages 22 to 25)



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1 Q. That's kind of a vague answer and not very  
2 helpful.

3 A. Okay. Sorry.

4 Q. Let's focus on the origin of the fire.  
5 What did he tell you about the origin of the fire?

6 A. As I recall, it was in the corner next to  
7 the drive-thru window, and we walked through the  
8 photographs just of that very quickly.

9 And again the focus of the discussion we  
10 had was on -- the context was, you know, here's this  
11 -- here are the exhibits they recovered, here are the  
12 receptacles they've recovered, here's the drive-thru  
13 window and so on.

14 Q. Did Mr. Booth, when looking at the  
15 pictures, show you where he believed the origin of  
16 the fire was located?

17 A. Loosely. I mean, he put it generally in  
18 that corner.

19 Q. Okay.

20 A. I guess the right-hand corner if you're  
21 facing the drive-thru window on the side of the  
22 building.

23 Q. How close to the floor did he put the  
24 fire?

25 A. I don't recall.

1 A. Only in the sense -- from the work that I  
2 would do with it, to define the failure modes and  
3 effect -- the effect that I'd be driving to look for.

4 I mean, the cause and origin investigators  
5 have isolated x amount of exhibits for evidence that  
6 they have pulled from the area of origin that through  
7 their expertise they've narrowed down to.

8 In my case, I would drive the failure  
9 modes and effects analysis for the effect of  
10 potential fire causing failure or defect, and then I  
11 would start looking at all the plausible modes or  
12 mechanisms the particular exhibit or piece of  
13 evidence we're talking about might have, and then  
14 start looking at what supporting or refuting evidence  
15 I would need from an investigative perspective on  
16 that exhibit to be able to converge on probable or  
17 improbable.

18 Q. Okay, so other than the general area of  
19 origin, did Steve Booth tell you anything else about  
20 where this fire started?

21 A. Well, he told me that -- I guess that the  
22 client -- that there was some question, you know,  
23 that people were suspecting involvement potentially.

24 Q. And what did he tell you about that?

25 A. That was really the gist of it.

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1 Q. Did he point to you on the fire where he  
2 believed it started?

3 A. We were talking over the phone.

4 Q. Excuse me.

5 Okay, so he walked through the pictures  
6 with you over the phone?

7 A. Over the phone, yes, ma'am.

8 Q. So did you have a copy as well as he had  
9 his own copy, or did he literally just tell you what  
10 his photos showed?

11 A. No. He actually uploaded the photos for  
12 me in Dropbox and I could pull them down so we could  
13 both look at the photos and talk through them  
14 together.

15 Q. So when he was talking to you about the  
16 origin of the fire, what exactly -- where did he tell  
17 you other than it was in the drive-thru window area?

18 A. We had specific photographs that we were  
19 going through, and there were quite a few of them, so  
20 -- you know, I don't recall specifically exactly  
21 where he's placing the origin.

22 And again, my focus was on looking at the  
23 physical evidence available on the 17th.

24 Q. So is the origin of a fire relevant to  
25 your part of the investigation?

1 Q. Did he tell you about any interviews that  
2 were conducted?

3 A. No. We didn't get in to any of that.

4 Q. Did Steve Booth tell you whether or not he  
5 suspected the client, Mr. Diamontopoulos, caused the  
6 fire?

7 A. No, he did not, because again, it would  
8 have no bearing on what I would be doing.

9 Q. Okay.

10 A. The evidence is what it is.

11 Q. When Mr. Booth mentioned to you that there  
12 was suspicion regarding whether Mr. Diamontopoulos  
13 set the fire, who did he tell you thought that Mr.  
14 Diamontopoulos set the fire?

15 A. Well, he had told me that -- I guess that  
16 his insurance company, that there was some dispute  
17 over the cause of the fire, so I'm assuming that  
18 that's who is suspecting him.

19 Q. Did Mr. Booth ever mention Mr.  
20 Diamontopoulos by name?

21 A. Yes, because that's actually the client.  
22 I mean, that's the name, you know, of the client that  
23 I guess is your client, but we're working for Mr.  
24 Wiggins, and so yes, I have heard that name. He's  
25 talked about that.

8 (Pages 26 to 29)

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1 He's talked about some time lines and  
2 things about the evening of the fire, so I have heard  
3 that name from Mr. Booth.

4 Q. Okay, but I have a specific question.

5 Did he ever mention Mr. Diamontopoulos as  
6 the suspect who set the fire?

7 A. That was what I understood the suspicion  
8 to be.

9 Q. Did he tell you why there was suspicion  
10 surrounding Mr. Diamontopoulos?

11 A. I know he's referred to a time line that,  
12 you know, he was there the evening of. I guess he  
13 was the last person that was there that evening, so.

14 Q. Are you talking about the morning of the  
15 fire?

16 A. The -- prior to the fire, he was the last  
17 person in the restaurant, was my understanding.

18 Q. Did he go through the time line with you?

19 A. No, not in great detail.

20 I mean, he mentioned a couple of minutes  
21 at Walmart or whatever, and just kind of talked  
22 through it, but we didn't -- we didn't spend any  
23 great detail on the time line because, again, it  
24 would have no bearing on the context of the work I  
25 was doing.

1 A. He told me that -- in part of that  
2 conversation that apparently there was some video of  
3 his vehicle at a certain time that can help to fill  
4 in points.

5 But again, we didn't spend a lot of time  
6 on that because it's not helpful to me.

7 Q. But it was background information given to  
8 you. Correct?

9 A. Yes, ma'am.

10 Q. And so you did have a discussion with Mr.  
11 Booth regarding this information?

12 A. In no great detail, but yes.

13 Q. Okay, I understand it wasn't in great  
14 detail, but I'm trying to get the details of the  
15 conversation.

16 A. Right.

17 Q. So other than the couple of minutes that  
18 -- at Walmart, what else did he tell you about the  
19 background information of this case?

20 A. I really don't recall anything else  
21 specific.

22 Q. Okay, was any financial issues surrounding  
23 the business mentioned to you by Steve Booth?

24 A. Yes. I think that was mentioned on the  
25 17th, on or right before.

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1 Q. So, for your purposes, the cause of the  
2 fire, of whether or not someone set the fire, has no  
3 bearing on what your -- of your determination?

4 A. That's correct.

5 I mean, I specifically was asked to look  
6 at the evidence for evidence of fire causing failure  
7 defects and to be able to comment on this particular  
8 item, this HME IQ wireless transmitter, as to whether  
9 there's sufficient evidence for me to be able to rule  
10 it in or rule it out, so...

11 Q. Let's go back to the time line.

12 So Mr. Booth walked through the time line  
13 with you from the time that Mr. Diamontopoulos was at  
14 the store and the time the fire started. Is that  
15 correct?

16 A. No, that's not correct.

17 Q. Okay.

18 A. He didn't walk through the time line with  
19 me in any sense of accuracy. He just said there was  
20 some time line that placed him at the restaurant  
21 prior to, he was looking at all of that.

22 Q. Prior to the fire?

23 A. Yes, ma'am.

24 Q. And then you mentioned Walmart. What did  
25 he tell you about Walmart?

1 Q. Tell me about that discussion.

2 A. Well, not just -- just that there were  
3 financial issues, and, of course, on the 17th part of  
4 the -- part of the evidence that had been recovered  
5 were actually like -- I don't think they were bank  
6 statements. It was more like deposit slips and  
7 things like that. So it was really in the context  
8 of, you know, why would that be an interest?

9 Q. And what did Mr. Booth tell you about the  
10 financial condition of Miami Subs?

11 A. Only that there were issues. We didn't go  
12 into great detail.

13 Q. So did he just say they were having  
14 financial problems with no details?

15 MR. WIGGINS: Objection.

16 MS. DALY: You can answer.

17 MR. WIGGINS: You can answer.

18 THE WITNESS: I don't know if he put  
19 it that way, but that yes, there were financial  
20 issues, financial concerns.

21 MS. DALY: Okay.

22 THE WITNESS: The exact words I  
23 don't recall, because again, that's not relevant to  
24 what I'm doing.

25 Q. (Ms. Daly) Did you walk away from that

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<p>1 discussion with the impression that there were 2 financial problems with the company? 3 MR. WIGGINS: Objection. 4 MS. DALY: And you can answer. 5 MR. WIGGINS: Answer it if you can. 6 THE WITNESS: Yes. 7 Q. (Ms. Daly) Did he talk to you about the 8 fact that there were no dumpsters located on the 9 property? 10 A. No. 11 Q. Did he talk to you about the IRS visiting 12 Mr. Diamontopoulos the week of the fire? 13 A. No. 14 Q. Did he tell you about numerous employees' 15 checks bouncing the months leading up to the fire? 16 A. No. 17 Q. Did he mention any financial issue 18 specifically? 19 A. Not that I recall. 20 Q. Leading up to the evidence inspection, do 21 you recall any other discussions you had with Mr. 22 Booth? 23 A. No, I don't. 24 Q. Other than Mr. McLean and Mr. Booth, did 25 you have any other discussions with anyone between</p>	<p>1 A. Only that I talked to Steve Booth on the 2 11th about this case. 3 I know that he and Mr. McLean had talked 4 about whether or not to retain me, about whether or 5 not they were going to retain an engineer. I believe 6 Steve may have even given me a heads-up that I might 7 be getting a call. So it was really just a -- a very 8 brief background review. 9 Q. Do you recall now anything additional that 10 you spoke to Mr. Booth about other than what we've 11 just spoken about --- 12 A. --- No. 13 Q. --- In the last few minutes? You have 14 written, intercom system installed directly above 15 point of fire origin. Origin area not in dispute. 16 Who told you about the intercom and the 17 origin? 18 A. Booth. 19 Q. The next statement just discusses about 20 Mr. Wiggins, the attorney requesting service/client. 21 Have you had any issues being paid for 22 your services in this case? 23 A. No. 24 Q. And have the checks come directly from 25 McCoy Wiggins?</p>
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<p>1 April 11th and April 17th about --- 2 A. --- Not that I recall. 3 Q. --- This case? 4 A. No. 5 Q. Did you do any evidence review of any type 6 of documents or photographs other than walking 7 through Mr. Booth's photos between 11th -- April 11th 8 and April 17th? 9 A. Can I check my notes real quick? 10 Q. Sure. 11 A. Okay. 12 (Witness examined documents) 13 A. No. 14 Q. Let me go ahead and mark your notes, Mr. 15 Booth (sic), as Exhibit 2. 16 (* Exhibit 2 was marked *) 17 Q. Other than the notes that you have 18 provided to us, do you have any other notes in this 19 case? 20 A. No. 21 Q. Looking at Exhibit 2, there's a date, 22 April 11, 2013, and it states, case review with Steve 23 Booth following receipt of assignment. 24 The case review with Steve Booth, are you 25 -- what are you referencing in that statement?</p>	<p>1 A. I believe so, yes. 2 Q. Who told you about the April 17th joint 3 exam? 4 A. It could have been either Steve Booth or 5 Trey, because after I got the assignment we swapped 6 several emails and several phone calls to make sure 7 that we honed in on exactly what my role was going to 8 be in this. 9 Q. Were you told that your role was limited 10 in this case to looking at the evidence at the 11 inspection on April 17th? 12 A. No. It's -- the initial part of the 13 assignment was to go participate in that joint 14 examination and then to support, you know, further 15 findings and discussion as appropriate. 16 Q. Okay. I understand what you did at the 17 evidence inspection. You mentioned support further 18 findings. 19 Have there been any other further findings 20 that you've given opinion about since April 17th? 21 A. Only in discussion of this -- this one 22 ion, this HME wireless set. 23 Q. Other than that, anything else? 24 A. No. 25 Q. Why have you never gone to the fire scene?</p>

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1 A. Because there is no need for me to go  
2 within the context of what it is that I'm doing.

3 You know, if the exhibits -- they've  
4 already been pulled out as they were and made  
5 available on the 17th, and this -- this other device,  
6 the wireless headset device, is no longer there, no  
7 longer available, there wouldn't be much use for me  
8 to go to the fire scene after it's already been  
9 disturbed.

10 Q. Were you ---

11 A. --- Oh, sorry.

12 Q. No, go ahead, please.

13 A. And since there were no potential fire  
14 causing failures or defects in the things that I did  
15 look at on the 17th, again, there would be no reason  
16 for me to go back there.

17 Now I'll just add to that, that if I felt  
18 the need to go back there, I would have made the  
19 request and gone.

20 MS. DALY: Let's take a five-minute  
21 break.

22 (2:25-2:31 p.m. - recess)

23 Q. (Ms. Daly) Okay, so we finished  
24 discussing everything you did between April 11th and  
25 April 17th, the evidence exam. Is that correct?

1 acknowledged that I saw them there, and that we as a  
2 group, that's what we looked at. And also that those  
3 originated from Mr. Lacy, and that the other items in  
4 those six, there were no fire causing failures or  
5 defects.

6 There was nothing notable there.

7 Q. And the x-ray -- x-ray inspection of  
8 debris in paint can.

9 A. Yeah. The discussion around that was that  
10 Mr. Cavarock was proposing just x-raying the contents  
11 of that can. I didn't know what was in that can, and  
12 having spent a lot of time looking at x-rays and  
13 non-destructive techniques, the type of x-ray machine  
14 you have, the qualification of the operator, whether  
15 he's level one, two, three certified and so on, goes  
16 directly to the confidence in what you see portrayed  
17 on the screen in the x-ray.

18 So once I found out that he didn't have  
19 any certification as a non-destructive inspector, I  
20 only had to push to have the can physically opened at  
21 the end of our inspection. So that was a note to  
22 myself just to say that I want to see what's in the  
23 can.

24 Q. Okay, and did you get to see what was in  
25 the can?

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1 A. Yes.

2 Q. So let's talk about your evidence exam on  
3 April 17th.

4 In your notes you have listed six items on  
5 page one of seven, six items you examined.

6 A. Yes.

7 Q. And under that it states -- can you read  
8 into the record your handwriting at the bottom  
9 paragraph on page one.

10 A. Sure. It says x-ray inspection of debris  
11 in paint can using low load portable system.

12 Operator is not NDI certified as an x-ray  
13 inspector. NDI being non-destructive inspection.

14 Q. And the inspector you are referring to is  
15 John Cavarock? Is that correct?

16 A. That's correct.

17 Q. Upon the completion of your inspection of  
18 these six items listed on page one, was there any  
19 evidence of potential fire causing failure or defect?

20 A. No.

21 Q. So after you -- what was your conclusion  
22 after inspecting these six items?

23 A. I was just really acknowledging that they  
24 were there, like the six plastic Pepsi cups.  
25 Somebody took the time to collect them. I just

1 A. I did.

2 Q. And what was your conclusion after you got  
3 to see what was in the can?

4 A. It was mostly just debris. There was  
5 nothing noteworthy in there, at least for the  
6 purposes or the context of what I was doing.

7 Q. Was there any discussion between you and  
8 Mr. Booth or Mr. Cavarock regarding any of these six  
9 items that you haven't discussed with me already?

10 A. No.

11 Q. Did you ever have a discussion with Mr.  
12 Wiggins or Mr. McLean or any attorney on behalf of  
13 the plaintiff in this case regarding any of those six  
14 items?

15 A. No.

16 Q. Page two of your notes. It says second  
17 set of evidence collected by John.

18 Are you referring to John Cavarock?

19 A. I was.

20 Q. Okay.

21 A. To be honest, at that point I didn't  
22 recall his name, so I just said John, but that's John  
23 Cavarock.

24 Q. Let's walk through the items that you  
25 reviewed at this evidence inspection.

11 (Pages 38 to 41)

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<p>1 Item one ---</p> <p>2 A. --- Was the electrical meter, service</p> <p>3 meter that John had pulled from the -- the</p> <p>4 restaurant.</p> <p>5 And also -- these are also -- the way</p> <p>6 these are laid out, they follow with the layout of my</p> <p>7 photos. I took quite a few photos during my exam,</p> <p>8 so....</p> <p>9 Q. Okay.</p> <p>10 A. It's a very brief meter, but it calls my</p> <p>11 attention back to my photos, which we'll see quite a</p> <p>12 few of the meter, for example.</p> <p>13 Q. Okay. Thank you.</p> <p>14 A. Okay.</p> <p>15 Q. Was there anything significant with the</p> <p>16 meter?</p> <p>17 A. No.</p> <p>18 Q. Was there any evidence of potential fire</p> <p>19 causing failure or defect in the meter?</p> <p>20 A. We didn't open it, but no.</p> <p>21 Q. Items two and three, you have conduits and</p> <p>22 receptors -- receptacles, excuse me.</p> <p>23 A. Receptacles, right.</p> <p>24 Q. Tell me about your findings with the</p> <p>25 conduit and receptacles.</p>	<p>1 and the descriptions, or the brief descriptions that</p> <p>2 were on his tags identifying the origin.</p> <p>3 Q. Right. And you're relying on Mr.</p> <p>4 Cavarock's identification because you were not at the</p> <p>5 evidence collection. Correct?</p> <p>6 A. That's correct.</p> <p>7 And also Mr. Booth, because there was</p> <p>8 quite a bit of discussion amongst the engineers as we</p> <p>9 were doing this, clarifying points of origin from</p> <p>10 where these parts came from and so-on. So.</p> <p>11 Q. And was Mr. Booth and Mr. Cavarock ever in</p> <p>12 disagreement over where any of these items were?</p> <p>13 A. There was discussion more so for</p> <p>14 clarification, but no, I wouldn't say disagreement,</p> <p>15 no.</p> <p>16 Q. What does your next sentence state?</p> <p>17 A. Receptacle with blue number one, in</p> <p>18 quotes, was located adjacent to drive-thru.</p> <p>19 Q. And go ahead and continue reading the next</p> <p>20 paragraph, please.</p> <p>21 A. Partial disassembly of number one</p> <p>22 receptacle revealed essentially uniform thermal</p> <p>23 damage with no obvious ohmically induced distress.</p> <p>24 Q. And what is the significance with that</p> <p>25 finding?</p>
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<p>1 A. There were no findings. There was</p> <p>2 unremarkable, no fire causing failures or defects.</p> <p>3 Q. I'm going to get you to read your</p> <p>4 handwriting under that. It says item two.</p> <p>5 A. Okay, it says conduit/branch circuit</p> <p>6 removed from wall between office area at first</p> <p>7 drive-thru window.</p> <p>8 Q. Continue reading, please.</p> <p>9 A. Beneath that is receptacle box with</p> <p>10 remnants of plugs attached was surface mounted to</p> <p>11 office wall.</p> <p>12 Q. And what significance does that have to</p> <p>13 you?</p> <p>14 A. Just giving me the orientation of where it</p> <p>15 was and that it was on the surface of the wall.</p> <p>16 Q. And this paragraph that says item two in</p> <p>17 it ends with attached was surface to the office wall.</p> <p>18 A. Mounted?</p> <p>19 Q. Mounted to the office wall.</p> <p>20 Are you referencing the items two and</p> <p>21 three that you previously noted?</p> <p>22 A. Ah, yes. And really, you know, again,</p> <p>23 this was the first time I'd seen this evidence.</p> <p>24 As you know, since you were there, it was</p> <p>25 all bagged and tagged, so I'm relying on Mr. Cavarock</p>	<p>1 A. No evidence of a potential fire causing</p> <p>2 failure or defect within that.</p> <p>3 Q. The next is the junction box.</p> <p>4 A. Yes.</p> <p>5 Q. What does it state in the parentheses?</p> <p>6 A. Parentheses, it states reportedly</p> <p>7 installed in ceiling.</p> <p>8 Q. And did you examine the junction box?</p> <p>9 A. I did.</p> <p>10 Q. And what did you find?</p> <p>11 A. The paragraph below states, uniform</p> <p>12 thermal damage, no ohmic -- it's the symbol for ohms</p> <p>13 -- ohmic distress. Removal of conduit.</p> <p>14 Q. Before you go on, what's the significance?</p> <p>15 A. No electrical distress, no ohmically</p> <p>16 induced heating.</p> <p>17 Q. All right, so go ahead and continue,</p> <p>18 please.</p> <p>19 A. Removal of conduit, parentheses, blue zip</p> <p>20 tie, is the way it was identified ---</p> <p>21 Q. --- Right.</p> <p>22 A. --- As an exhibit.</p> <p>23 So removal of conduit, blue zip tie, to</p> <p>24 expose three solid copper conductors to one of two</p> <p>25 branches to top of junction box revealed uniform</p>

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<p>1 thermal damage with no -- the symbol for ohms -- no 2 ohmically induced distress. And it also says below 3 that uniform oxidation. 4 Q. So again, what is the significance of that 5 finding --- 6 A. --- No evidence of --- 7 Q. --- To you? 8 A. --- Electrical distress or potential fire</p>	<p>1 to consensus that receptacle box was in the wall. 2 Q. So why was that decision made? 3 A. Because the -- as installed, the box was 4 recessed into the wall, so it was protected from the 5 fire. 6 Q. Were you in agreement? 7 A. I was. 8 Q. What does the last paragraph on page three</p>
<p>9 causing failure or defect. 10 Q. On page three, can you read the first 11 paragraph. 12 A. Okay, it says side flex conduit 13 terminating at duplex with remnants of plugs still 14 retained. Exhibits evidence of aluminum alloying 15 right at side of box body. 16 Q. What was your findings? 17 A. Okay. There was some -- some localized 18 deformation of the copper conduit that's the result 19 of a eutectic melting process where it's effectively 20 contaminated the copper with molten aluminum to form 21 new alloy, and that's the reason that I believe the 22 distortion is there. 23 It is not indicative of electrical 24 distress or any potential fire causing failure or 25 defect. It simply explains the apparent melting and</p>	<p>9 state? 10 A. Orange zip tied segments of conduit was 11 attached to junction box but was empty. 12 So I'm just making the point that there 13 was one section of conduit that was -- there's 14 nothing in it, so no wires to look at. 15 Q. Anything else significant --- 16 A. -- No. 17 Q. --- About that piece of evidence? 18 A. (Witness indicated negatively) 19 Q. Okay. If you could read into evidence the 20 next paragraph, on page four. 21 A. Disassembly of duplex junction box with 22 remnants of plug revealed essentially uniform thermal 23 damage, parentheses, minimal, with combustible 24 materials present and existing only superficial 25 melting of plastic and discoloration.</p>
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<p>1 deformation localized. 2 Q. Go ahead and read the next paragraph. 3 A. Removal of steel conduit with blue zip tie 4 revealed no localized thermal damage or, the symbol 5 for ohms, or ohmically-induced distress. 6 Q. Again, the significance of that finding? 7 A. No evidence of electrical distress or 8 potential fire causing failure or defect. 9 Q. Please read into evidence the next 10 statement. And I apologize I'm making you read 11 these, but there's no way in the world I'm going to 12 be able to go back and read your handwriting. But no 13 one could read mine, either. 14 A. I understand. 15 Removal of steel conduit from bottom of 16 junction box, parentheses, yellow zip tie, revealed 17 uniform thermal damage with no ohmic, symbol again, 18 ohms symbol, no ohmically induced distress. 19 Q. And what is the significance of that 20 finding? 21 A. No evidence of electrical distress or 22 potential fire causing failure or defect. 23 Q. What does the next paragraph state? 24 A. Decision not to expose conductors within 25 steel conduit connected to receptacle number one due</p>	<p>1 Q. What was the significance of your finding? 2 A. Again, no electrical distress. Some 3 localized thermal -- thermal damage, but it was 4 superficial in nature, and consistent with exposure 5 to fire rather than from within the junction box as a 6 source of heat. 7 Q. The next paragraph, item three. 8 A. Item three, branch circuit. It says three 9 duplex receptacle outlets, branch circuit conductors, 10 slash, raceways, removed from service entrance, east 11 corner of building. 12 Q. And did you find any fire causing failure 13 or defect in item three? 14 A. No. 15 Q. Please continue reading. 16 A. Okay. Parentheses -- in parentheses under 17 that paragraph was the number two and number three as 18 they were identified were located near the origin in 19 wall to the right. 20 Q. You can continue reading. 21 A. Okay. Disassembly of receptacle marked as 22 number two, in quotes. Minimal thermal damage, 23 combustible materials intact. 24 No evidence of localized thermal damage 25 or, the symbol for ohms, ohmically-induced distress.</p>

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<p>1 Q. Again, the significance of that is that</p> <p>2 there was no potential fire causing failure or</p> <p>3 defect?</p> <p>4 A. That's correct.</p> <p>5 Q. Please continue reading.</p> <p>6 A. Disassembly of receptacle marked as three,</p> <p>7 in quotations, similar thermal damage to number two,</p> <p>8 in quotations. No evidence of localized damage or,</p> <p>9 the ohm symbol again, ohmically-induced distress.</p> <p>10 Q. And what was the significance?</p> <p>11 A. No electrical distress, no fire causing</p> <p>12 failures or defects in the exhibit.</p> <p>13 Q. And what is the next?</p> <p>14 A. Disassembly of unmarked receptacle located</p> <p>15 in, quotation marks, office.</p> <p>16 Q. And what does the last sentence state?</p> <p>17 A. Similar thermal damage as in number two</p> <p>18 and number three above.</p> <p>19 Q. And again, does that mean that there was</p> <p>20 no potential fire causing failure or defect?</p> <p>21 A. Yes.</p> <p>22 Q. Items one through three that we just</p> <p>23 discussed that were taken by John Cavarock, were</p> <p>24 there any discussions between you and Mr. Cavarock</p> <p>25 regarding those items?</p>	<p>1 A. Sure.</p> <p>2 Q. And what did you tell him?</p> <p>3 A. That there were no -- there's no evidence</p> <p>4 of a fire causing failure or a defect within any of</p> <p>5 those items examined.</p> <p>6 Q. And would you agree with me that Mr. Booth</p> <p>7 would have to rely on your expertise as the</p> <p>8 electrical engineer to determine whether or not there</p> <p>9 was an electrical failure ---</p> <p>10 A. --- Well, I'm a ---</p> <p>11 Q. --- That caused the fire?</p> <p>12 A. --- Mechanical engineer ---</p> <p>13 Q. --- Right.</p> <p>14 A. --- With a lot of experience looking at</p> <p>15 electrical things, but yes, he would rely on me for</p> <p>16 the engineering opinion.</p> <p>17 Q. Right. And that would be appropriate ---</p> <p>18 A. --- Yes.</p> <p>19 Q. --- For him to rely on you. Is that</p> <p>20 correct?</p> <p>21 A. For the engineering opinion, yes.</p> <p>22 Q. Right. Okay, let's talk about item four,</p> <p>23 the DVR and switch.</p> <p>24 I'm going to get you to read the next two</p> <p>25 sentences because I can't read it.</p>
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<p>1 A. Not specifically between us, but there was</p> <p>2 just general discussion during the course of this</p> <p>3 that we were talking about where the exhibits came</p> <p>4 from.</p> <p>5 There was some clarification, those sort</p> <p>6 of things, but nothing of significance to my</p> <p>7 findings.</p> <p>8 Q. How about with you and Mr. Booth? Did you</p> <p>9 explain to Mr. Booth -- first -- strike that.</p> <p>10 Is Mr. Booth an electrical engineer?</p> <p>11 A. No.</p> <p>12 Q. Is he an engineer?</p> <p>13 A. No.</p> <p>14 Q. So when you were looking at items one</p> <p>15 through three, did you discuss your findings with Mr.</p> <p>16 Booth?</p> <p>17 A. I did that day. As to whether or not we</p> <p>18 stopped after item three or after every item and, you</p> <p>19 know, had a caucus, no, we didn't. I mean, we just</p> <p>20 pressed through the inspection.</p> <p>21 Q. I understand that. I'm talking about at</p> <p>22 any point in time, did you discuss items one through</p> <p>23 three with Mr. Booth?</p> <p>24 A. Oh, after the 17th?</p> <p>25 Q. Yes. Or on or after.</p>	<p>1 MR. WIGGINS: Page five.</p> <p>2 THE WITNESS: Yeah.</p> <p>3 MR. WIGGINS: Thank you.</p> <p>4 THE WITNESS: I lost it there.</p> <p>5 It says beneath the statement DVR and</p> <p>6 switch, it says, secondary exterior fire damage.</p> <p>7 Q. (Ms. Daly) And what does that mean?</p> <p>8 A. That the thermal damage exhibited by the</p> <p>9 DVR and the switch was consistent with exposure to</p> <p>10 heat externally rather than internally.</p> <p>11 Q. Uh-huh.</p> <p>12 A. And that it's secondary.</p> <p>13 Q. And what does the next statement say?</p> <p>14 A. The next line says -- that says MFG --</p> <p>15 that's abbreviation for manufacturer's details in</p> <p>16 photos.</p> <p>17 Q. And what's the significance about your</p> <p>18 finding with the DVR and the switch?</p> <p>19 A. There was no evidence of a potential fire</p> <p>20 causing failure or defect. It was -- all the damage</p> <p>21 was as a result of exposure to the fire.</p> <p>22 Q. There was, during that examination, a</p> <p>23 power supply that went to the DVR system, and there</p> <p>24 was a point where everyone stopped and you and Mr.</p> <p>25 Booth stepped away, and I believe Mr. Booth made a</p>

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<p>1 phone call at that time and the two of you stepped 2 outside and had a discussion. 3 Do you recall what that discussion was 4 about? 5 A. No. A power supply? 6 Q. Right. A plug. 7 A. Yes, I do recall that. 8 Q. And ---</p>	<p>1 system video. 2 Q. And you keep saying if. 3 A. Well, I understand --- 4 Q. --- Was there ever any evidence that it 5 wasn't? 6 A. Not presented on the 17th. I was told at 7 a later date that that wasn't, that that was an old 8 system.</p>
<p>9 A. --- The discussion was whether or not the 10 plug was -- was -- that the item was plugged in at 11 the time of the fire --- 12 Q. --- And what was your finding? 13 A. That that particular cord was not. 14 Q. Was not plugged into the wall --- 15 A. --- That's right. 16 Q. --- At the time of the fire. And how were 17 you able to determine that? 18 A. By essentially uniform patterns of 19 oxidation and discoloration from exposure to the 20 heat. If it had been plugged in, you would have seen 21 non-uniform patterns. 22 Q. Tell me everything you recall about the 23 discussion with Mr. Booth regarding that plug. 24 A. That was really the gist of it, the fact 25 that the plug wasn't plugged in, and I guess there</p>	<p>9 But again --- 10 Q. --- That it was an old surveillance 11 system? 12 A. Or part of one, yes. But again, it has no 13 bearing on --- 14 Q. --- I understand that. 15 A. --- My part in this. 16 Q. --- But I still want to know everything 17 that's been told to you. 18 A. I understand. But I don't want you to 19 understand that I'm not listening all that hard when 20 I'm hearing it because it doesn't have any bearing on 21 what I'm doing. 22 Q. I understand. So let's stick with the 23 17th. 24 A. Okay. 25 Q. Anything else you can recall Mr. Booth</p>
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<p>1 was some discussion as to whether this was the -- 2 part of the video security -- part of the security 3 system or not. 4 Q. Where were you told that this item was 5 found? 6 A. I don't recall. 7 Q. And when you and Mr. Booth talked, did Mr. 8 Booth tell you the significance of the fact that the 9 surveillance equipment was unplugged at the time of 10 the fire? 11 A. Only that if this was, in fact, the -- the 12 video system, that that was strange, or abnormal, 13 noteworthy. 14 Q. Did you make a phone call after that item 15 was inspected on that date? 16 A. No. 17 Q. Did Mr. Booth? 18 A. I don't know. 19 Q. Did he tell you that he called anyone 20 after finding that piece of evidence? 21 A. I don't recall specifically. 22 Q. Do you recall Mr. Booth's reaction to the 23 plug? 24 A. Surprise. I think that was not a finding 25 he was expecting if that was in fact the security</p>	<p>1 saying to you about the plug that was not plugged 2 into the wall? 3 A. Well, I mean, he -- he thought it was 4 important. He thought it was relevant. 5 You know, he certainly wanted to -- to 6 document that and to make sure that he understood it. 7 As to how he was going to use that and how it fits 8 into his investigation, I don't know. 9 Q. All right, I understand. 10 Were you ever told that there was evidence 11 that on the day of the fire the surveillance system 12 had been turned off, according to witness statements? 13 A. I do know that the statement was made that 14 it was not operating, but I don't recall. It may 15 have even -- I may have even read that in a report. 16 Q. Okay. 17 A. It may have been in Mr. Lacy's report, but 18 I've also heard that. 19 Q. From Mr. Booth? 20 A. I believe so. 21 Q. How about from the attorneys? 22 A. No, I don't recall that. 23 Q. I appreciate you sticking to the day of 24 the August 17th, however, right now I would like to 25 talk about any discussions you have had after August</p>



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<p>1 17th with anyone about the DVR system and the plug 2 that was inspected on April 17th. 3 So is it clear what I -- the topic of 4 discussion I want to stick to? 5 A. Yes. 6 Q. Okay, so let's --- 7 A. --- I see where you want to go. I'm 8 just.... 9 Q. Okay, so let's first start with Mr. Booth. 10 A. Okay. 11 Q. What discussions have you had with Mr. 12 Booth about the plug that was not plugged into the 13 wall that you discovered at the April 17th 14 examination? 15 A. Only what I've already told you that we've 16 already gone over. 17 Q. If you don't mind -- and I apologize. I'm 18 not trying to ask a question you're already answered. 19 I must have missed it. 20 So exactly what was said to you about the 21 DVR system and the plug to that DVR system? 22 A. That he was surprised when that was found. 23 Q. Right. 24 A. Now, I understand from the discussions 25 that we've had since then that that's an old system,</p>	<p>1 Q. I understand. And Mr. Booth told you 2 that? 3 A. That's my recollection, yes. 4 Q. And who told Mr. Booth that there was this 5 old system and new system at the property? 6 A. I don't know. As the cause and origin 7 investigator, he's doing a lot more legwork, you 8 know, working the background more so than I am, so -- 9 but I don't know. 10 Q. So he never told you how he found out that 11 information? 12 A. No. 13 Q. Anything else that you recall that Steve 14 Booth told you about the DVR system? 15 A. No. 16 Q. Have you had a discussion with anyone 17 else, other than Mr. Booth, regarding the DVR system? 18 A. No. 19 Q. Did you have a discussion with Mr. 20 Cavarock? 21 A. Not that I recall, no. 22 Q. Did you have a discussion with anyone from 23 McCoy Wiggins? 24 A. Only that there was no evidence of a fire 25 causing failure or defect, which is what I was there</p>
Page 59	Page 61
<p>1 that there was another system, a newer system, a 2 replacement. 3 Q. So let's be clear. 4 Mr. Booth told you that there were two 5 systems, two surveillance systems located on the 6 property at Miami Subs on the date of the fire? 7 A. No. What he's told me -- or my 8 understanding of what he said was that what we had 9 there was part of an older system, that a newer 10 system had been installed. So that doesn't mean 11 there are two up and running systems. 12 Q. I understand. 13 A. That's not what I'm trying to imply, 14 so.... 15 Q. I understand that. 16 A. Okay. 17 Q. But you are implying that there was an 18 older system just left in place in addition to this 19 newer system? 20 A. That's my understanding. 21 Q. Okay. 22 A. But again, I wouldn't hold to that because 23 --- 24 Q. --- I understand. 25 A. --- To get clarification.</p>	<p>1 to look for. 2 Q. I understand. 3 Anything about the DVR system specifically 4 that you recall discussing with anyone from McCoy 5 Wiggins? 6 A. No. 7 Q. Item five. 8 A. Okay. Electronics and cords removed from 9 southwest wall of office. Assorted electronic 10 components, power supplies and apparent routers with 11 secondary fire damage consistent with exposure to 12 external -- and I've got q with a dot over it for 13 heat rate, heat flux, or just external heat. 14 Two circuit boards loose in debris appear 15 to be remnants of router not believed to be part of 16 communication system, slash, headsets. 17 Q. How did you determine that it was not 18 believed to be part of the communication system 19 headsets? 20 A. The -- the makeup of the boards, the 21 physical size, was inconsistent. 22 Q. Anything else besides the physical size? 23 A. Also the makeup of the boards. I mean, it 24 was clear that they -- they had LAN interfaces that 25 would be part of a cable system for a router. It</p>

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1 looked consistent with the router.

2 I believe Mr. Cavarock stated he thought  
3 they were router components as well as sort of a  
4 consensus as we went through the components, for  
5 where they came from and generally what the  
6 identification was, right down to trying to find  
7 manufacturers, identifiers, and so on on the stuff.

8 Q. Were you able to find manufacturer  
9 identifiers?

10 A. On some components, but not on certainly  
11 the circuit boards.

12 Q. Right. Anything else?

13 A. No.

14 Q. And what significance?

15 A. Again, it was all exposure to -- the  
16 thermal damage was a result of the exposure to  
17 externally applied rather than internally or  
18 ohmically-generated heating. So no fire causing  
19 failures or defects apparent.

20 Q. Item six.

21 A. Okay, that says alarm panel and URS  
22 removed from ---

23 Q. --- What does URS stand for?

24 A. I'd have to look at my photos to get a  
25 good look at what I abbreviated there.

1 position indeterminate.

2 Q. Did you find any evidence of potential  
3 fire causing failure or defect in item six?

4 A. No.

5 Q. And have we exhausted anything else you  
6 recall about the plug?

7 A. Yes, we have.

8 Q. Item seven.

9 A. It says monitor removed from southwest  
10 wall. It says unremarkable.

11 Q. Again, any evidence of potential fire  
12 causing failure or defect?

13 A. No.

14 Q. Item eight.

15 A. HP printer. And below that it says  
16 secondary thermal damage. And then, again, below  
17 that it says unremarkable.

18 Q. Again, any evidence of potential fire  
19 causing failure or defect?

20 A. No.

21 Q. Item nine.

22 A. Item nine was a deposit ticket book, and  
23 then for me, again, underneath that it says  
24 unremarkable.

25 Q. How about item 10?

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1 Q. You can continue reading.

2 A. Oh, okay. I didn't know if you wanted me  
3 to look at photos.

4 Q. No.

5 A. Okay. All right, so removed from  
6 southwest wall of office.

7 And then beneath that it says actually  
8 determined to be the power supply for the security  
9 camera system.

10 Trace of power ---

11 Q. --- Is that what we've been discussing  
12 today?

13 A. That's what we were discussing earlier  
14 rather than ---

15 Q. --- In reference to item four?

16 A. --- DVR and switch, yes. Yeah.

17 Q. Please continue.

18 A. So it says trace of power cord, two power  
19 strip, established the camera system was unplugged,  
20 not powered, and cord blades were oxidized,  
21 discolored, consistent with the exposure to fire in  
22 the unplugged state.

23 Power switch housing for camera system was  
24 compromised by thermal damage resulting in release of  
25 one contact and the actuating spring, making switch

1 A. It says debris pile items recovered  
2 between drive-thru windows. And beneath that it says  
3 monitor, keyboard and molten slag with two, quotation  
4 mark, D cell batteries.

5 Q. Were you able to determine where the two D  
6 cell batteries came from, other than the pile of  
7 debris?

8 A. No.

9 Q. What actual instrument they came from ---

10 A. --- No.

11 Q. --- At the time of the fire?

12 And was there anything significant about  
13 item 10?

14 A. No.

15 Q. And again, was there any potential fire  
16 causing failure or defect?

17 A. No.

18 Q. You have a telephone number on the back of  
19 page six, 301-620-6758.

20 A. Okay.

21 Q. Can you tell me whose number that is?

22 A. That's probably one of my engineers up at  
23 Pax River, which has nothing to do with this case. I  
24 just wrote down a telephone number somewhere I  
25 shouldn't have.

17 (Pages 62 to 65)

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<p>1 Q. And are you the only engineer from your 2 company who has reviewed any of the evidence in this 3 case? 4 A. Yes. 5 Q. Item 11. 6 A. End of fluorescent tube and strands of 7 wire. 8 Q. Did you find anything significant about 9 item 11? 10 A. No. 11 Q. Was there any potential fire causing 12 failure or defect in item 11? 13 A. No. 14 Q. Item 12. 15 A. Cover plate receptacle. 16 Q. Again, any potential fire causing failure 17 or defect? 18 A. No. This was literally just the cover 19 plate for a receptacle, so -- but no. 20 Q. Any evidence on that that there was --- 21 A. --- No. 22 Q. --- Any type of failure? 23 And what does your next paragraph say? 24 A. The word underlined is Lacy's, and it 25 refers back to Terry Lacy's evidence, and it says,</p>	<p>1 evidence that there might be something there. 2 Q. And did you find evidence of the remnants 3 of the headset? 4 A. The headsets, no, but of the circuit 5 boards for the.... 6 Q. Base station? 7 A. The base station, yes. 8 But I was actually pointed to those by Mr. 9 Booth, I think, and Mr. McLean. They -- you'll see 10 in the notes that come up. 11 Q. And that was after your evidence 12 inspection on April 17th? 13 A. Yes. As far as when the photographic 14 evidence of the remains of the base station appeared, 15 yes. 16 Q. Of the circuit boards? 17 A. Yes. 18 Q. Is that what you're referring to? 19 A. Yes, ma'am. 20 Q. I wanted to get your opinion regarding the 21 evidence inspection. 22 After inspecting all of the evidence that 23 was present on April 17th, 2013, did you find any 24 evidence of a potential fire causing failure or 25 defect at that inspection?</p>
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<p>1 item one, paint can opened and sifted. Nothing 2 remarkable. 3 Q. And nothing remarkable, does that mean 4 there was no potential fire causing failure or 5 defect? 6 A. Nothing that I could see that was there. 7 I mean, it was -- I know others probably took samples 8 and things like that, but from my perspective, no. 9 Q. And tell me your conclusions? 10 A. It says no evidence of a potential fire 11 causing failure or defect within the evidence 12 available in the exhibit provided, or exhibits 13 provided. There's an S in there. 14 Item two is no evidence of remnants of 15 reported headset intercom system within exhibits 16 provided. 17 Q. Before we continue further into your 18 notes, why did you review the photos of Booth, Mr. 19 Lacy and Mr. Martini? 20 A. At which time? Just in general? 21 Q. In general. 22 A. Well, specifically there was a question as 23 to the whereabouts of this headset or the remains of 24 it, and so I went through certainly Martini's 25 photographs and Lacy's photographs looking for any</p>	<p>1 A. No, I did not. 2 Q. Let's look at the last page of your notes. 3 There's not a page number on it. 4 It starts of with Troy McLean, phone call 5 May 17th, 2013. 6 A. Yes. 7 Q. Can you tell me -- are these your notes of 8 your understanding from the phone call that you had 9 from -- with Mr. McLean? 10 A. They are. It was really just a case 11 status for, you know, how I maintain my file, just so 12 I know where I left it. 13 Q. Okay, will you read to me that paragraph. 14 A. It says Trey McLean, phone call 5-17-13. 15 No need for report at this time. 16 I provided synopsis of findings and 17 observations during destructive exam on 4-17. Quote, 18 no evidence of potential fire causing failures or 19 defects within evidence presented for examination, 20 end quote. Excuse me. 21 Trey was going to try and locate technical 22 specifications for the transmitter in question for 23 analysis to identify potential fire causing failures 24 or defects. 25 Q. And when he's talking about the</p>

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1 transmitter, is he referring to the base station?

2 A. Really of the whole system.

3 Q. The whole system.

4 A. And I was asking for that, because I would  
5 use that to drive my failure modes and effects  
6 analysis if it was going to be pursued.

7 Q. Did he locate the technical  
8 specifications?

9 A. He located pretty much a brochure on the  
10 item which then gave me the model number and so-on.  
11 Then I was able to do additional research to find the  
12 information I needed, or some of the information I  
13 needed.

14 Q. You said some of the information you  
15 needed.

16 What information were you able to find?

17 A. What I found was just very basic operating  
18 characteristics, you know, so many volts, so many  
19 amps. It's big, you know, in terms of size, weight,  
20 basic operating characteristics.

21 And then I was also able to find a couple  
22 of manuals, one for this as well as one for a similar  
23 system for the batteries, just to get a feel for the  
24 construction of the battery charger and the base  
25 station itself.

1 or mechanisms to ground or convergence.

2 I don't have any evidence to evaluate, so  
3 -- an analytical analysis on its own isn't really  
4 much help. It just tells you about the design. You  
5 need the artifact to actually close the loop on it.

6 Q. During your research on this specific base  
7 station, the HME Ion IQ wireless drive-thru audio  
8 system, did you find any evidence during your  
9 research that there had been any type of  
10 manufacturing defect in this product?

11 A. No.

12 Q. Did you find any evidence that there had  
13 been a design defect in this product?

14 A. No.

15 Q. Did you find any evidence of any  
16 electrical failures with this HME Ion IQ wireless  
17 audio system?

18 A. No.

19 Q. Did you have a discussion with Mr. McLean  
20 or Mr. Wiggins after April 17th, 2013?

21 A. Well, yes. Perhaps you're referring to  
22 May 17th, after May 17th?

23 Q. Yes.

24 A. Okay.

25 Q. I apologize. I misspoke. Yes.

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1 Q. What were you not able to find that you  
2 needed?

3 A. I certainly would have liked, if I were  
4 going to derive that sort of analysis to identify  
5 plausible failure modes and mechanisms in the unit,  
6 then I would need to see the basic drawings or  
7 schematics for the circuit cards so I could identify  
8 component level board failures, that would be of  
9 interest.

10 Q. And without that information are you able  
11 to -- strike that.

12 Would you have needed that information to  
13 provide any more of an expert opinion on the base  
14 station?

15 A. No. I could take what I have and I could  
16 still generate a high level of failure modes and  
17 effects analysis, but it wouldn't go to the  
18 individual component --

19 Q. -- Did you do that?

20 A. No, I did not.

21 Q. And why did you not do that?

22 A. Because at this time -- the purpose of  
23 doing that analysis would be to then identify  
24 supporting and refuting evidence within the evidence  
25 to, you know, drive each one of the plausible modes

1 Did you have a conversation between May  
2 17th, 2013, and May 29, 2013, with either Mr. McLean  
3 or Mr. Wiggins?

4 A. I don't have notes on it. We may have  
5 exchanged emails, because a lot of the communication  
6 has been through email --

7 Q. -- Okay.

8 A. -- As well.

9 Q. You have provided to me two emails.

10 Have there been any other emails besides  
11 the two emails?

12 A. I would expect so, yes.

13 Q. Will you provide all of the emails either  
14 you have received or sent to Mr. Wiggins to provide  
15 to me at the close of this deposition?

16 A. Sure, yes.

17 Q. Okay, and on the record, will you state  
18 that you will not delete any communications from your  
19 computer?

20 A. Yes.

21 Q. So the next documented communication you  
22 have is an email dated May 29th, 2013, from Mr.  
23 McLean?

24 A. Yes.

25 Q. I'll marked it as Deposition Exhibit 3.

19 (Pages 70 to 73)

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1 (\* Exhibit 3 was marked \*)  
 2 Q. Do you recall having a discussion with Mr.  
 3 McLean prior to him sending this May 29th email?  
 4 A. I don't recall.  
 5 Q. Did you have any discussions with Mr.  
 6 Booth prior to you writing your report, between the  
 7 evidence exam on April 17th and May 29th?  
 8 A. I don't recall specifically, although I  
 9 would expect we probably did have conversations over  
 10 that span.  
 11 Q. Did you ever talk to Mr. Booth about the  
 12 contents of your report?  
 13 A. Not beyond what I've already conveyed here  
 14 today in terms of my findings and opinions.  
 15 Q. In the email dated May 29th from Mr.  
 16 McLean, he asks you, could you also say that it is  
 17 possible that the circuit boards were represented in  
 18 the picture number 33 in Martini's report?  
 19 Do you see that question posed to you?  
 20 A. I do.  
 21 Q. Did Mr. Booth or Mr. McLean show you the  
 22 photograph 33?  
 23 A. Yes.  
 24 Q. And prior to them showing you photograph  
 25 33 of those circuit boards, did you find that photo

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1 on your own?  
 2 A. No. I -- up until Mr. McLean provided  
 3 that photo -- and this may very well be the email  
 4 that they provided. I don't know. You'll see the  
 5 email chain when you see them.  
 6 But I have not seen that photo before.  
 7 That -- and so then we went through a series of  
 8 exchanges about quality of the photo, because it  
 9 really is a poor quality PDF versus a raw image,  
 10 which normally people exchange.  
 11 Q. Have you ever asked for the raw image?  
 12 A. Yes, multiple times.  
 13 Q. Who did you ask?  
 14 A. Back through Trey McLean. And you'll  
 15 probably see that in that exchange.  
 16 Q. And did Mr. McLean tell you that he had  
 17 ever asked for the raw picture?  
 18 A. He -- yes. He said ---  
 19 Q. --- What did he say?  
 20 A. --- He was going to look for it.  
 21 Q. Okay.  
 22 A. That he was going to try to -- he's going  
 23 to make the request and get that for us. I think  
 24 what he had sent me actually was buried in a power  
 25 point slide the first time around, and...

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1 Q. And did he ever provide you a clear  
 2 picture?  
 3 A. The next thing I got was a blown-up  
 4 version of the original just on a power point slide,  
 5 but it wasn't -- it didn't have any better fidelity  
 6 or granularity to it. It was just a bigger blow up.  
 7 He tried. Somebody tried. But it wasn't what I  
 8 needed.  
 9 Q. Did you tell him it's not what I need to  
 10 make the determination, can you get me a better  
 11 quality ---  
 12 A. --- Yes.  
 13 Q. --- Picture?  
 14 A. I asked for better quality.  
 15 Q. Okay. And have you received anything from  
 16 Mr. McLean or anyone from McCoy Wiggins since then?  
 17 A. I'd have to go back and look at my email  
 18 files, but eventually I did get photographs, and then  
 19 they're also in Mr. Martini's report. I was able to  
 20 see what he had there as well, so....  
 21 Q. Were those photos clearer than the ones  
 22 you had originally received?  
 23 A. A little bit, but not much. But it's  
 24 enough to where you can make it out.  
 25 At this point, you know, we were still

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1 going through the -- the effort of trying to pin down  
 2 exactly which version of the Ion IQ this was, what  
 3 the circuit boards really ought to look like, you  
 4 know, the actual dimensions and so on. So I was  
 5 certainly having difficulty concurring that I could  
 6 positively identify that image as an image of those  
 7 boards at that time.  
 8 Q. Can you read to me your last paragraph on  
 9 your last page of notes?  
 10 A. Supplemental reports from Martini and Lacy  
 11 of Donan Engineering provided for review, 7/18/13, in  
 12 advance of 7/19/13 deposition.  
 13 My preparation for the deposition was  
 14 completed last night.  
 15 Q. Exactly how many hours did you spend  
 16 preparing for the deposition?  
 17 A. Total about five. I had reports to review  
 18 that I wasn't aware of.  
 19 Q. And we'll get to those reports in a  
 20 moment.  
 21 So that I understand your opinions in this  
 22 case, is it your opinion that there was not an  
 23 electrical failure at Miami Subs on January 24, 2012?  
 24 A. No.  
 25 Q. So is it ---

20 (Pages 74 to 77)

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1 A. --- Well, wait. No, that's not my  
2 opinion.  
3 Q. So let's break that down.  
4 A. Okay.  
5 Q. Have you found any evidence to date that  
6 there was an electrical failure at Miami Subs on  
7 January 24th, 2012?  
8 A. No, I have not.  
9 Q. So even though you have not found any  
10 evidence of an electrical failure, is it your opinion  
11 that there was an electrical failure at Miami Subs on  
12 January 24, 2012?  
13 A. No.  
14 Q. So tell me exactly what is your opinion  
15 regarding the evidence that you have reviewed,  
16 including photographs, any of the items that you've  
17 seen regarding any evidence of failure at Miami Subs?  
18 A. It's my opinion that for the items that  
19 were made available to me for examination on the 17th  
20 that there is no evidence of a potential fire causing  
21 failure or defect within those items.  
22 It's my understanding that the Ion ---  
23 Q. --- I'm going to stop you right there  
24 before you go further.  
25 A. Okay.

1 Q. And you went through hundreds of photos  
2 and reviewed those and you found no evidence of an  
3 electrical failure that could have caused the fire at  
4 Miami Subs on January 24, 2012?  
5 A. Yes.  
6 Q. Is that correct?  
7 A. That is correct.  
8 Q. Is there anything else you reviewed that  
9 you used to eliminate any other type of electrical  
10 failure at Miami Subs?  
11 A. I'm not sure what you mean by anything  
12 else that I used.  
13 Q. Any other documents ---  
14 A. --- Are you asking me documentation ---  
15 Q. --- Yes.  
16 A. --- Or calculations or analysis ---  
17 Q. --- Did anybody show -- you mentioned a  
18 Power Point. That's the first time ---  
19 A. --- Oh, okay.  
20 Q. --- I've heard of a Power Point. So did  
21 someone do a Power Point presentation to you of this  
22 fire scene?  
23 A. Oh, okay. No. That was simply one slide  
24 that had this one image. I think it was 33, whatever  
25 it was we just talked about earlier. That's all that

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1 Q. You specifically limit it to the items  
2 that you reviewed on April 17th.  
3 You've also been provided hundreds of  
4 pictures. Is that correct?  
5 A. Yes.  
6 Q. Going through those hundreds of pictures  
7 that were taken at the scene, did you find any  
8 evidence of a fire causing failure or defect?  
9 A. No.  
10 Q. Any other, either photographs, documents,  
11 anything, items that you've reviewed?  
12 Have I covered everything that you've  
13 reviewed, then, to determine that there is no  
14 evidence that you have seen that there was an  
15 electrical failure at Miami Subs?  
16 A. Okay. I'm not really sure I'm  
17 understanding where you're going with that question.  
18 Q. Well, you said that in the actual evidence  
19 the items -- let's call that the items you inspected  
20 ---  
21 A. --- Yes.  
22 Q. --- On April 17th, there was no evidence  
23 of an electrical failure that could have caused a  
24 fire. Correct?  
25 A. That's correct.

1 was there.  
2 Q. Okay.  
3 A. It was just on a PowerPoint slide ---  
4 Q. --- Okay.  
5 A. --- But there wasn't a full PowerPoint.  
6 Q. Okay, so anything else other than the  
7 items, the photographs, anything else that you  
8 reviewed or items that you held in your hand that you  
9 used to determine there was not electrical failure at  
10 Miami Subs on January 24, 2012?  
11 A. No. There wasn't anything else that I  
12 used to do that.  
13 Q. Do you want a five-minute break? We've  
14 been going for another hour.  
15 A. I'm good.  
16 Q. Okay. Your report spends a significant  
17 time, as well as your invoice, on this Ion IQ  
18 wireless drive-thru audio system.  
19 Were you ever shown at the scene where  
20 this wireless system was located prior to the fire?  
21 A. In -- I've never been to the scene, but in  
22 the photographs of the scene it's my understanding it  
23 was in the upper right corner by the drive-thru  
24 window.  
25 And I've since also seen that -- I don't

21 (Pages 78 to 81)

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<p>1 know if it's Martini's or Lacy's report -- I believe  2 it's Martini's -- actually has it highlighted as  3 well. So I'm aware of where it was.  4 Q. And do you dispute that that was the  5 location where it was located?  6 A. No.  7 Q. Is the location of where it is located  8 relevant to your analysis?  9 A. Only in the sense that we now have the  10 evidence that it had substantial thermal damage, and  11 it was at or within the area of origin.  12 And it was not available for -- for me to  13 take a look at on the 17th, so it's relevant in the  14 sense that there's something there that's  15 electrically energized that I am unable to -- to --  16 to exclude.  17 Q. And are you qualified to determine whether  18 or not the location of this audio box and where it  19 was located, of the fire pattern that it would have  20 caused if it, the actual audio box, was the ignition  21 source for the fire?  22 A. No.  23 (* Exhibit 4 was marked *)  24 Q. I'm handing you what I've marked as  25 Exhibit 4.</p>	<p>1 it's from the audio system?  2 A. Yes.  3 Q. Have you ever spoken to Mr. Martini  4 regarding his exam of those circuit boards?  5 A. No.  6 Q. Have you ever talked about -- to Mr. Booth  7 regarding his exam of those circuit boards?  8 A. To my knowledge Mr. Booth has not had the  9 opportunity to examine those boards. So that's my  10 understanding.  11 Q. And do you know what happened to the  12 circuit boards?  13 A. I do not.  14 Q. Were you ever told what happened to  15 anything that was located at Miami Subs after the  16 completion of the investigation in January of 2012?  17 A. Well, I was told that Mr. Lacy had taken  18 into custody the exhibits that he had collected, and  19 then later Mr. Cavarock had done his inspection, at a  20 much later date, and had taken exhibits into custody  21 as well.  22 So my understanding was that all of the  23 exhibits were taken into the custody of either one of  24 those two gentlemen.  25 Q. And how about all the other -- I mean,</p>
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<p>1 Is it your testimony to a reasonable  2 degree of certainty that the item located in  3 photograph 33, that is the second item from the left,  4 is the circuit boards from the HME Ion IQ wireless  5 device?  6 A. Yes.  7 Q. Tell me how you determined that that item  8 was from the audio system base station?  9 A. By the approximate length and width  10 dimensions that were inferred, I guess, from the  11 other images and the document.  12 Also by the general construction or the  13 layout number of boards. It looked to be visually  14 consistent with what I would expect for the base  15 station.  16 Q. So, at trial, is it your understanding  17 that one of your purposes is to tell the jury that,  18 in your opinion, this circuit board came from the  19 audio system?  20 A. I will certainly tell them it is  21 consistent with the audio system.  22 Q. Okay.  23 A. Yes.  24 Q. Okay, and do you plan to testify under  25 oath, that to a reasonable degree of certainty, that</p>	<p>1 there was a great -- you've walked through the  2 evidence that was collected. Obviously, there was a  3 great number of things located in a restaurant.  4 Were you ever told what happened to all  5 the other items in the restaurant?  6 A. No.  7 Q. Did you ever ask?  8 A. Well, I mean, no, because normally you  9 wouldn't worry too much about the things that were  10 not in the immediate area of origin or of interest to  11 the origin, so no, the rest of the things in the  12 restaurant, no.  13 Q. How about the ballast to the fluorescent  14 lights?  15 A. No.  16 Q. Is there any evidence that the fluorescent  17 lights were an electrical -- had electrical failure  18 and caused the fire?  19 A. No, but they were not available to me,  20 either.  21 Q. Well, neither was the audio system, and  22 you've, you know, mentioned the audio system here  23 today.  24 So I'm asking you whether or not someone's  25 mentioned the fluorescent lights, either Mr. Booth or</p>

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<p>1 the attorneys for the plaintiff.</p> <p>2 A. I've seen it in -- I guess it's Martini's</p> <p>3 report where he did talk about it on the scene, but</p> <p>4 no.</p> <p>5 Q. Do you have any intention on testifying to</p> <p>6 the jury that any component of the fluorescent</p> <p>7 lighting caused this fire?</p> <p>8 A. No.</p>	<p>1 photo to get beyond other than the fact that -- other</p> <p>2 than the fact that it has obviously seen a lot of</p> <p>3 heat.</p> <p>4 Q. Anything else?</p> <p>5 A. No.</p> <p>6 Q. So is it your opinion, to a reasonable</p> <p>7 degree of certainty, that there was an electrical</p> <p>8 failure with the base station?</p>
<p>9 Q. So we have your first opinion is that the</p> <p>10 circuit boards were components of the base station.</p> <p>11 Is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So the next opinion, actually</p> <p>14 observation, I should say, stated in your June 3rd,</p> <p>15 2013, report states the boards were noted to display</p> <p>16 severe thermal damage.</p> <p>17 Do you see that?</p> <p>18 A. I'm sorry. Which paragraph are you on?</p> <p>19 Q. The last page ---</p> <p>20 A. --- Yes.</p> <p>21 Q. --- Of your report.</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Other than that one statement, the boards</p> <p>24 were noted to display severe thermal damage, did you</p> <p>25 find anything else of significance in reviewing the</p>	<p>9 A. No.</p> <p>10 Q. Okay. Is it your opinion, to a reasonable</p> <p>11 degree of certainty, that there was an electrical</p> <p>12 failure with the power supply to the base station?</p> <p>13 A. No. That's not my opinion.</p> <p>14 Q. I'm trying to walk through these so I can</p> <p>15 get exactly what your opinion is.</p> <p>16 So do you have any evidence that there was</p> <p>17 a potential fire causing failure or defect with this</p> <p>18 base station?</p> <p>19 A. No.</p> <p>20 Q. So if you were called to the stand today</p> <p>21 to testify to a jury regarding this base station,</p> <p>22 what is your opinion to a reasonable degree of</p> <p>23 certainty?</p> <p>24 A. That the condition of that or the</p> <p>25 potential contribution of that to the fire is</p>
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<p>1 photos of the circuit boards?</p> <p>2 A. No. I mean, the quality of the image</p> <p>3 doesn't really support further -- further assessment.</p> <p>4 Q. And that's what you were referring to</p> <p>5 earlier whenever you asked your attorneys to provide</p> <p>6 you with a better quality photo?</p> <p>7 A. Exactly.</p> <p>8 Q. And you're still waiting for that photo?</p> <p>9 A. If there is one, yes.</p> <p>10 Q. So when you state that there was severe</p> <p>11 thermal damage, tell me what you mean by that</p> <p>12 statement.</p> <p>13 A. The combustible materials on the board</p> <p>14 appear to be consumed.</p> <p>15 Surface mounted components appear to be</p> <p>16 gone, for the most part. Looks like it's down to</p> <p>17 substrate and maybe heat sink material.</p> <p>18 What little bit of combustible material</p> <p>19 that is there looks like there's carbonaceous residue</p> <p>20 for the most part.</p> <p>21 So severe thermal damage, consumption of</p> <p>22 combustible materials. Potential melting,</p> <p>23 degradation of the -- you know, the circuit path and</p> <p>24 substrate.</p> <p>25 I really don't have enough detail in the</p>	<p>1 indeterminate. There simply isn't -- I don't have</p> <p>2 any evidence to look at, and I can't tell from the</p> <p>3 images that I've been given. So I can't -- I can't</p> <p>4 effectively rule it out.</p> <p>5 I can't reproduce the methodology or the</p> <p>6 findings of Mr. Martini because I don't have access</p> <p>7 to it.</p> <p>8 MS. DALY: Let's take a five-minute</p> <p>9 break.</p> <p>10 (3:44-3:53 p.m. - recess)</p> <p>11 Q. (Ms. Daly) You reviewed the expert reports</p> <p>12 from Terry Lacy and Henry Martini. Is that correct?</p> <p>13 A. Yes.</p> <p>14 (* Exhibit 5 was marked *)</p> <p>15 Q. I am showing you what has been marked as</p> <p>16 Exhibit 5, the report of Mr. Martini. I'd like to</p> <p>17 walk through that report with you.</p> <p>18 The first opinion is that the electrical</p> <p>19 supply to the building did not cause or contribute to</p> <p>20 the fire. Do you have -- do you agree with that</p> <p>21 finding?</p> <p>22 A. I didn't inspect that.</p> <p>23 Q. So do you have any evidence to refute Mr.</p> <p>24 Martini's finding that the electrical supply to the</p> <p>25 building did not cause or contribute to the fire?</p>



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<p>1 A. No.</p> <p>2 Q. Did anybody prevent you from going to the</p> <p>3 building at Miami -- the Miami Subs building to</p> <p>4 determine whether or not the electrical supply to the</p> <p>5 building contributed to the fire?</p> <p>6 A. No, but it was my understanding that the</p> <p>7 exhibits, some of it had already been removed, but</p> <p>8 there was no need for me to go there.</p> <p>9 Q. Opinion number -- did you make any</p> <p>10 comments to any -- anybody, Mr. Booth, the attorneys</p> <p>11 from McCoy Wiggins, or anyone else regarding opinion</p> <p>12 one in Mr. Martini's report?</p> <p>13 A. Was that the opinion we just covered?</p> <p>14 Q. Yes. If you want to look at it, it's</p> <p>15 right in front of you.</p> <p>16 A. Okay. Thank you.</p> <p>17 Q. Oh, you're welcome.</p> <p>18 A. So what page are you on?</p> <p>19 Q. Number one.</p> <p>20 A. And your question?</p> <p>21 Q. Did you discuss opinion number one with</p> <p>22 anyone?</p> <p>23 A. No.</p> <p>24 Q. And so the record is clear, do you have</p> <p>25 any evidence to disagree with the statement that the</p>	<p>1 Q. Number five, the fluorescent fixtures</p> <p>2 installed in the suspended ceiling at or near the</p> <p>3 area of fire origin did not cause or contribute to</p> <p>4 the fire.</p> <p>5 Do you have any evidence to refute Mr.</p> <p>6 Martini's finding?</p> <p>7 A. No.</p> <p>8 Q. Before we get to number six and number</p> <p>9 seven, do you have -- other than the theory on this</p> <p>10 audio system, do you have any other theories you have</p> <p>11 given to anyone, Mr. Booth, the attorneys from McCoy</p> <p>12 Wiggins, of any possible electrical failure that</p> <p>13 could have caused the fire?</p> <p>14 A. I don't have a specific theory on this</p> <p>15 system. I simply don't have the evidence to be able</p> <p>16 to evaluate the condition of that or the contribution</p> <p>17 of it, so I don't have a working theory of this</p> <p>18 particular part failed first and then subsequently</p> <p>19 resulted in, you know, ignition and so on.</p> <p>20 Q. Let's put aside anything to do with the</p> <p>21 base station.</p> <p>22 A. Okay.</p> <p>23 Q. Do you have any other possible theories?</p> <p>24 A. No.</p> <p>25 Q. And in regards to the base station, am I</p>
Page 91	Page 93
<p>1 electrical supply to the building did not cause or</p> <p>2 contribute to the fire?</p> <p>3 A. No.</p> <p>4 Q. The second opinion is that the electrical</p> <p>5 service from the electric meter to the circuit</p> <p>6 breaker panels located within the building did not</p> <p>7 cause or contribute to the fire.</p> <p>8 Do you agree with Mr. Martini's finding?</p> <p>9 A. I did not inspect any of that, other than</p> <p>10 the meter, but I have no reason to dispute it.</p> <p>11 Q. Number 3. No evidence of electrical</p> <p>12 failure was identified in and around the area of fire</p> <p>13 origin that could have served as an ignition source</p> <p>14 for the fire.</p> <p>15 Do you have any evidence to disprove Mr.</p> <p>16 Martini's opinion number 3?</p> <p>17 A. I have no evidence to refute that, no.</p> <p>18 Q. Number four, the electrical components</p> <p>19 consisting of wiring and receptacles that are located</p> <p>20 within the structure and the area of fire origin at</p> <p>21 the rear drive-thru window did not cause or</p> <p>22 contribute to the fire.</p> <p>23 Do you have any evidence to refute Mr.</p> <p>24 Martini's opinion?</p> <p>25 A. No.</p>	<p>1 correct in understanding that you don't have a</p> <p>2 workable theory as to how the fire was caused by this</p> <p>3 base station?</p> <p>4 A. That's correct.</p> <p>5 Q. If you would look at photograph 33 and 34</p> <p>6 that are both found on Exhibit 4.</p> <p>7 First, have you seen any other photographs</p> <p>8 of the PCB's?</p> <p>9 A. Yes. In Mr. Martini's report that I</p> <p>10 reviewed last night, I believe he had front and back</p> <p>11 views of the boards, where this is just pretty much a</p> <p>12 one-sided view.</p> <p>13 (* Exhibit 6 was marked *)</p> <p>14 Q. I'm handing you what's also been marked as</p> <p>15 Exhibit 6.</p> <p>16 Paragraph -- excuse me, photograph 35, is</p> <p>17 that the photograph you're referencing?</p> <p>18 A. Yes.</p> <p>19 Q. Were you ever given these three</p> <p>20 photographs prior to you writing your report? I know</p> <p>21 you were given photograph 33 because you referenced</p> <p>22 it.</p> <p>23 How about 34 and 35?</p> <p>24 A. Certainly not 35. It doesn't look</p> <p>25 familiar. I think what I saw was 33 and then</p>

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1 eventually 34.

2 Q. When you say eventually 34, what do you  
3 mean by eventually 34?

4 A. Let me look back at the email that we  
5 referred to earlier where I believe this was actually  
6 -- no, I think it was only 33 initially.

7 Q. And that was provided by the attorneys who  
8 have retained you. Correct?

9 A. That's correct.

10 Q. From the photographs you reviewed, so look  
11 at 33, 34, and 35.

12 Is there any evidence of localized or  
13 isolated heat damage to the print circuit board  
14 material?

15 A. The photographs are not adequate for me to  
16 say.

17 Q. So do you have any evidence that there was  
18 localized or isolated heat damage to the print  
19 circuit boards?

20 A. No.

21 Q. Have you ever spoken to Mr. Martini  
22 regarding his inspection of these boards?

23 A. No.

24 Q. Did you ask Mr. Martini at the evidence  
25 inspection on April 17th anything about the PCB's?

1 any real degree of certainty. So within the limited  
2 capability with what's presented here, I mean, I have  
3 no evidence to support or refute his comments.

4 Q. If you were working with an electrical  
5 engineer at your firm -- do you have anybody else  
6 that works at your firm or are you the only engineer?

7 A. Just me.

8 Q. Do you ever work with electrical engineers

9 ---

10 A. --- Umm ---

11 Q. --- On cases?

12 A. No. Do you mean do I subcontract one or  
13 hire one or consult one?

14 Q. Or on the same case, if an attorney has  
15 retained you and retained an electrical engineer.

16 A. I have done, yes, now that I think about  
17 it.

18 Yes, there have been cases where, I mean,  
19 they've had quite a few engineers ---

20 Q. --- Right.

21 A. --- On all one side of a case.

22 Q. --- Correct.

23 A. --- As a large team working together. So  
24 in those cases, yes.

25 Q. And if you were brought in as the

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1 A. No. To be honest, I was expecting them to  
2 be there.

3 I mean, because all the evidence had been  
4 collected, so I expected it was going to -- that we'd  
5 probably find them there as we sorted through.

6 Q. And when you didn't, did you ever ask Mr.  
7 Martini, the other electrical engineer, or the  
8 electrical engineer on site?

9 A. No.

10 Q. And am I correct you're not an electrical  
11 engineer?

12 A. Mechanical.

13 Q. You're mechanical?

14 A. That's correct.

15 Q. But my question is are you an electrical  
16 engineer?

17 A. No.

18 Q. Do you have any evidence to refute Mr.  
19 Martini's finding that the heat damage to the printed  
20 circuit board is uniform and consistent with an  
21 external source of heat?

22 A. No, I don't have any evidence to support  
23 that.

24 Q. Do you have any evidence to refute it?

25 A. No. I can't tell with these images with

1 mechanical engineer and you have an expert on the  
2 same side as you that's brought in as the electrical  
3 engineer, what would be your role typically in that  
4 case as the mechanical engineer?

5 A. Well, as -- from my experience and  
6 background, I would imagine it would be looking  
7 together at these things and talking about it and  
8 sharing an opinion.

9 Q. And if that electrical engineer was  
10 actually on site and had the item in hand and  
11 inspected the item in hand and made a determination  
12 versus you reviewing the photograph and making a  
13 determination, which opinion would you rely on, yours  
14 or the electrical engineer's that had the item in  
15 hand?

16 A. When it comes to non-uniform patterns of  
17 damage, oxidation, melting, things like that, I would  
18 rely on mine.

19 Q. Okay.

20 A. My observations. But if I was there with  
21 him on site, we'd be discussing it.

22 Q. Okay, so you would be able to rely on your  
23 opinion based on a photograph.

24 You would rely more heavily on your  
25 opinion based on a photograph than you would rely on

25 (Pages 94 to 97)

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<p>1 an electrical engineer who actually had an item in 2 hand --- 3 A. --- No. I'm sorry. 4 Q. --- Doing a determination --- 5 A. --- I misinterpreted your -- I 6 misunderstood your question. I missed the photograph 7 part. I thought we were there together. 8 Q. No. 9 A. Okay. 10 Q. So it's the exact same scenario that we 11 have here, where you have an actual -- an electrical 12 engineer who was on site who inspected the PCB's and 13 made a determination, would you rely on that opinion 14 more than you would rely on your own opinion based on 15 photographs? 16 A. I wouldn't within the context of what I 17 was asked to do in this case, you know, can I rule 18 this in or out? I don't have the physical evidence 19 to be able to do that. I'd have to rely on someone 20 else's interpretation. 21 And even though Mr. Martini may be a fine 22 electrical engineer, I don't know, I'm not going to 23 rely on his interpretation of thermal damage, 24 oxidation patterns, and so on. 25 Q. Would you want anyone else's, other than</p>	<p>1 A. Okay. I've underlined certain text there 2 and in the margin. 3 Would you like me to read those notes? 4 Q. Yes, please. 5 A. There's a bracket that refers back to the 6 underlined section, and it says secondary severe 7 thermal damage exposing substrate and heat sink 8 material. Don't know what surface mounts and other 9 components look like. Needs a micro exam to support 10 or refute hypothesis. 11 Q. What is a micro exam? 12 A. Microscopic, or in this case, macroscopic, 13 five to 50x magnification, just to be able to go over 14 it. 15 Q. Before we go to number seven, do you have 16 any evidence to refute anything stated in finding 17 six? 18 A. No. 19 Q. Did you discuss item six with anyone? 20 A. No, because I only got this last night at 21 about, what, six o'clock. Actually, I did. We 22 talked for maybe five minutes this afternoon when I 23 got here. 24 Q. Well, you told me earlier that you talked 25 to the attorneys last night and you talked to them</p>
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<p>1 your own? 2 A. If I was asked to form an opinion and rule 3 it in or rule it out, no, I would -- I would go with 4 mine. 5 Q. And in your opinion --- 6 A. --- And what he provides should be 7 reproducible by others. Right? 8 Q. Right. And your opinion in this case is 9 you have no evidence either way? 10 A. Yes. 11 Q. When did you learn that these PCB's 12 potentially came from the audio system? 13 A. At or about the time that is in that email 14 exchange where Mr. McLean had actually sent me an 15 image, because these images were not made available 16 to me early on. So up until that time I didn't know 17 that we had them in custody, or someone had them. 18 Q. Do you know who identified the photos to 19 Mr. McLean? 20 A. No, I don't. 21 Q. Before I go further, on page three of Mr. 22 Martini's report you have written notes in the bottom 23 right-hand corner. 24 Please read those notes. 25 (Witness examined documents)</p>	<p>1 today --- 2 A. --- Yes. 3 Q. --- About the reports. 4 A. Yes. 5 Q. Okay, so what did you talk about regarding 6 the reports? 7 A. Still that I -- I don't have any evidence 8 that I can point to that would allow me to rule this 9 in or rule it out. So it still, to me, is an 10 open-ended question. 11 Q. Anything else? 12 A. No. 13 Q. So, did they ask you questions back? That 14 took about 20 seconds. So what else was discussed on 15 the conversation last night and today? 16 A. Well, the conversations last night were 17 really more focused on getting the reports to me so I 18 could do the review. And --- 19 Q. So did you talk to them after the review? 20 A. No. 21 Q. Okay, so you only talked --- 22 A. --- And that's what we did briefly --- 23 Q. --- To them before the review? 24 A. --- Here today. 25 Q. Okay.</p>

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1 A. Yes.

2 Q. And other than how to get the reports to  
3 you was there anything discussed in that conversation  
4 prior to you receiving the reports?

5 A. No, not really.

6 Q. And then in your discussion today?

7 A. Very brief summary of an opinion, the same  
8 one I just gave you, that I really can't tell, even  
9 though these -- they have more photos here, they are  
10 a little bit better than what I had gotten earlier.

11 Still, for me to be able to conclusively  
12 rule out plausible modes or mechanisms with it, you  
13 either need the exhibit, right, to stack up against  
14 the analytical assessment, or you need better  
15 documentation of it, which Mr. Martini may very well  
16 have. It's just not available to me.

17 Q. Prior to you coming here today, did you  
18 ever ask your attorneys to ask me or anyone on  
19 Nationwide's side to bring to you any additional  
20 photographs?

21 A. Certainly in the time frame that the email  
22 refers to where image 33 came to me, we had  
23 discussions back and forth about, you know, gee, this  
24 is a PDF image.

25 I think I even allude to that in my

1 Q. In looking at photograph 16, do you agree  
2 that that was a protected area?

3 A. Yes, it appears to be.

4 Q. Generally speaking, do you agree that a  
5 well-defined area of fire origin would result in an  
6 area of greater fire or heat damage rather than a  
7 protected area?

8 A. That would make sense, yes. I guess I  
9 would -- I want to add to that, though, that  
10 depending upon where the actual point of origin  
11 within a device that's mounted there actually is,  
12 right.

13 Q. So get -- explain to me any theory you may  
14 have of how this base station had an electrical  
15 failure and caused -- strong enough to cause the  
16 fire.

17 How did it create a protected area if it  
18 was the actual electrical component that caught on  
19 fire?

20 A. Well, again, this is Mr. Booth's idea, but

21 ---

22 Q. --- And we've already established that.

23 A. Yeah.

24 Q. But you don't have any evidence refuting  
25 that this is where ---

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1 summary letter here, about it just being a low  
2 quality ---

3 Q. --- Uh-huh.

4 A. --- PDF image. Right?

5 But yes, I mean, I did make those requests  
6 and they said they were going to -- going to ask for  
7 it. But I never did get anything further to look at,  
8 or a better quality to look at. Put it that way.

9 Q. Okay, let's turn to page four, and it's  
10 finding seven, marked Mr. Martini.

11 (\* Exhibit 7 was marked \*)

12 Q. I'm going to show you what is marked as  
13 Exhibit 7. Do you -- strike that.

14 First, have you ever read Mr. Booth's  
15 report?

16 A. I have not.

17 Q. Have you been provided a copy of Mr.  
18 Booth's report?

19 A. I have not.

20 Q. In Mr. Booth's report he states that the  
21 protected area on the wall is the location where the  
22 base station was installed.

23 Do you agree with Mr. Booth?

24 A. That's my understanding, that that's where  
25 it was installed. I have no reason to dispute it.

1 A. --- Yeah.

2 Q. --- The base station was located.  
3 Correct?

4 A. Correct.

5 Q. Okay. So I want you -- what I'm asking  
6 from you as the mechanical engineer, give me your  
7 theories on how it could have come about that the  
8 base station, the electrical components of the base  
9 station, caught on fire, was the point of origin, and  
10 caused a protected area on the wall where it was  
11 mounted.

12 A. Okay. I guess off the top of my head,  
13 right? You don't know what ---

14 Q. --- Well, you knew -- being ---

15 MR. WIGGINS: --- Well, let him  
16 answer, Rachel.

17 Objection.

18 MS. DALY: I agree. Go ahead.

19 MR. WIGGINS: Okay.

20 THE WITNESS: I don't know which  
21 part of the base station, right, is actually up  
22 against that back surface.

23 For all I know of the base station, since  
24 I haven't seen one taken apart, there could very well  
25 be a metal backing plate that could have been there.

27 (Pages 102 to 105)

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1 And then the circuit boards and the rest of the  
2 component could have melted and fallen away. For all  
3 I know, that -- that -- that pattern is a metal base  
4 plate.

5 I don't know what the internal design  
6 features of this are. All I have to look at are  
7 remains of circuit cards. Where the rest of the base  
8 station is, I don't know. If there's a metal base  
9 plate on the back of that, then you may very well be  
10 looking at that. So I don't know.

11 Q. (Ms. Daly) Anything else other than if  
12 there's a metal base plate there's a possibility that  
13 could have provided a protected area?

14 A. Without knowing where within the unit a  
15 failure has occurred, and then how that would  
16 actually compromise the integrity of the housing  
17 holding this up -- and again, without the details of  
18 the design constraints for the design features of  
19 this -- but I could visualize losing just the lower  
20 part of the base station.

21 I mean, I don't know how this is going to  
22 come apart. It depends on where within the confines  
23 of the housing you start the ignition or start the  
24 fire, and then how that thing then comes apart.

25 But, you know, I understand where you're

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1 that.

2 Q. Other than if there was a metal base  
3 plate, or I believe you mentioned if something in the  
4 bottom of this audio system fell to the ground and  
5 caught on fire, any -- any other theory you could  
6 think of that would have caused a protected area as  
7 opposed to what you would generally find --

8 A. --- Well ---

9 Q. --- If that was the point of origin?

10 A. Just to be clear, before -- I'm just  
11 saying that I don't know how this housing would  
12 necessarily come apart as, you know, depending on  
13 where you start the fire.

14 But no, I don't have any other thoughts as  
15 to how you would leave a protected area behind this  
16 unit and still have that be the point of origin.

17 Q. Generally, whenever you've gone into fire  
18 scenes --

19 A. --- Yes.

20 Q. --- Is the point of origin the most  
21 damaged area at a fire scene?

22 A. Well, typically that's where your highest  
23 heat intensity is or seems to be in the ones that  
24 I've been on, yes.

25 Q. Have you ever seen the point of origin

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1 going, but I'm not sure that I necessarily need to  
2 defend the pattern on the wall for the focus of what  
3 I'm actually looking to do. I feel like this is more  
4 Mr. Booth and the cause and origin guys that would  
5 ---

6 Q. --- So are you saying that the pattern of  
7 fire on the wall is not within your expertise?

8 A. No. I'm saying that ---

9 Q. --- Because I thought you said earlier you  
10 would have -- you would look at yours over an  
11 electrical engineer's when you're looking at patterns  
12 of fire.

13 A. You didn't say on the wall. At that time  
14 we were talking about temper, discolorations,  
15 oxidation patterns, and damage on a circuit board.  
16 That's different than showing me a soot stain on a  
17 wall.

18 Oxidation, temper, discolorations, are  
19 definitely different things.

20 Q. Okay, so for the shadows and the pattern  
21 on the wall you would not give an opinion as an  
22 expert to the jury?

23 A. No. I wouldn't necessarily ---

24 Q. --- Okay.

25 A. I would not give them opinion defending

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1 provide a protected area and there be a higher fire  
2 and heat damage located somewhere else?

3 A. I don't know so much about it being a  
4 protected area, but depending on the fuel loads in  
5 the room after the fire initiates, I have seen higher  
6 intensities elsewhere.

7 Q. If there's like a ventilation system  
8 somewhere?

9 A. Sure. I mean, or if there's something  
10 that's highly combustible in another part of the room  
11 that catches large fuel loads, you get higher heat  
12 intensities.

13 Q. Did you have a discussion with anyone  
14 regarding this protected area?

15 A. Steve Booth told me that he saw that that  
16 was there.

17 Q. And what did he tell you about it?

18 A. After the 17th. It would have been well  
19 after.

20 Q. What did he tell you about it?

21 A. Oh, I'm sorry. I thought you said when.

22 Q. Oh, no. That's okay.

23 A. Okay. Just simply that there was a  
24 protected pattern on the wall.

25 Seems to be pretty much reciprocal to the

28 (Pages 106 to 109)

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1 dimensions of the base of the unit, so suspects that  
2 pretty well confirms where it was installed.

3 Q. Did you ever have a conversation with Mr.  
4 Booth about it being unusual that there would have  
5 been a protected area of the wall at the point of  
6 origin?

7 A. No.

8 Q. Did the two of you discuss anything about  
9 that, other than the fact that it was a protected  
10 area?

11 A. Relative to...

12 Q. Anything. I want to know any conversation  
13 you've ever had regarding this point of origin.

14 A. No. I mean, the only -- the only  
15 discussions we've had have been focused on really  
16 making sure that they understood or -- you know,  
17 they're making sure that I knew what -- what this  
18 component was and helping me get to the  
19 manufacturer's information, discussing whether or not  
20 there was enough evidence given as close proximity to  
21 the point of origin to be able to rule it in or rule  
22 it out as a potential cause, and recognizing that we  
23 have nothing but photos, you know, could you  
24 conclusively, you know, work through what we do have  
25 to be able to say one way or another.

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1 Q. Do you agree that the fact that this was a  
2 protected area makes it less likely that the audio  
3 system was the point of origin of the fire?

4 A. No. What this tells me is that there was  
5 something there to give you that protected area and  
6 it's likely going to be the back of the unit. As far  
7 as what the back of the unit is, whether that's a  
8 metal base plate or plastic housing or what, I don't  
9 know.

10 So without knowing the construction of the  
11 box, where within the box you think the fire may have  
12 started and occurred, and then how you would  
13 subsequently degrade or lose the integrity of the  
14 box, no. All that tells me is that that's a  
15 protected area on the wall.

16 Q. And you've never purchased one of these  
17 audio systems to do any type of destructive testing?

18 A. No.

19 Q. Have you ever purchased one to take it  
20 apart to determine the specifications ---

21 A. --- No.

22 Q. --- Of the design?

23 A. We discussed it, but we did not do that.

24 Q. Do you have any intentions on doing this  
25 before trial?

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1 A. Not that I'm aware of, no.

2 Q. And without doing that, are you able to  
3 testify to a reasonable degree of certainty the  
4 specifications of this audio system?

5 A. You mean the board level specifications  
6 that would allow a detailed failure modes and effects  
7 analysis?

8 Q. Yes.

9 A. No.

10 Q. Are you aware of any screws or holes from  
11 the screws found in the protected area of the wall?

12 A. No.

13 Q. Do you know how this was mounted on the  
14 wall?

15 A. Just a minute. Let me think.

16 When Booth and I talked about this, he  
17 actually did tell me that it was mounted on the wall  
18 using screws, but I don't recall whether the screws  
19 were there or not.

20 And as for your question just now, I have  
21 seen in the images -- I think it was in Martini's  
22 report that shows the back side of the base unit, and  
23 it shows four holes, I believe, for a screw mount  
24 location.

25 Q. Did you speak with anybody regarding Henry

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1 Martini's finding in number seven?

2 A. No.

3 Q. Do you have any evidence to refute any of  
4 the statements found in Martini's Exhibit 7 -- excuse  
5 me, finding seven?

6 A. No. Recognizing also, of course, that I  
7 haven't seen Mr. Booth's report to see the context of  
8 what he's saying, but no.

9 Q. On page five of Mr. Martini's report, at  
10 the bottom right-hand corner, can you read to me what  
11 you have written.

12 A. It says, extensive secondary damage may  
13 have destroyed primary patterns. This should have  
14 been recovered.

15 Q. And what are you referring to in that  
16 statement?

17 A. Well, there was obviously extensive  
18 thermal damage to this device that was in the area of  
19 the origin, and that what Mr. Martini is talking  
20 about here are the heat damage.

21 And the point I'm making is that this  
22 thing has been exposed to a lot of secondary heat  
23 damage as a result of the fire, and so it's hard to  
24 infer, certainly from pictures, primary versus  
25 secondary potentially. It could potentially mask

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1 some of the primary thermal patterns.

2 So I'm saying it should have been  
3 recovered so that we could get a better look at this  
4 under magnification and get better -- better  
5 photographs, which, again, he may have. But for me,  
6 I need more than that.

7 Q. Is it your opinion that Mr. Martini could  
8 not make this finding, or is it your opinion that you  
9 can't make this finding on the photographs?

10 A. It's my opinion that I cannot reproduce  
11 his finding. I cannot look at his photographs and  
12 concur with his observation.

13 Q. Is it your opinion, though, that Mr.  
14 Martini made the wrong determination based on his own  
15 inspection of the actual item?

16 A. No. I'm not opining that he made the  
17 wrong observation. I just simply don't know his  
18 background and ability to infer thermal patterns and  
19 oxidation patterns and so on. It's something you  
20 need to look at to be able to draw your own  
21 conclusion. I should be able to ---

22 Q. --- But you're not saying his conclusion  
23 is wrong. Is that correct?

24 A. That's correct.

25 Q. So on page six you have handwritten notes.

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1 Will you read those to me, please.

2 A. Sure. It's in reference to the class two  
3 power supply comments that he's got in his reports,  
4 and I said that class two -- you know, class two  
5 assumes dry indoor use, non-hazardous locations.

6 NEC, national electrical code. But it  
7 comes from -- straight from that. There are some  
8 caveats on class two and their ability to  
9 successfully minimize the potential for a fire.

10 Q. And why did you take those notes? What's  
11 the significance?

12 A. The area it's installed in, certainly  
13 there is potential for it to have been contaminated.

14 I mean, just because he says it's class  
15 two, that doesn't mean that it can't cause a fire.

16 There are some caveats that are called out  
17 in the NEC. You know, it's got to be indoors, it's  
18 got to be dry, non-hazardous locations. You don't  
19 want to contaminate the thing because of -- the  
20 boards and components are exposed.

21 Q. Do you agree with his two sentences in  
22 this paragraph that begins, class two power supplies  
23 are energy limited and are intended primarily to  
24 provide power to low voltage electrical devices?

25 Do you agree with that statement?

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1 A. I do, yes.

2 Q. And do you agree with the statement, the  
3 energy loading characteristics of a class two power  
4 supply are intended to minimize fire initiation  
5 potential and provide acceptable protection from  
6 electric shock?

7 A. I do, and it's that last sentence that my  
8 comments in the margin are really geared towards.

9 Q. But you do agree with that statement?

10 A. I do, yeah.

11 Q. You said that you also reviewed Mr. Lacy's  
12 report.

13 A. I did.

14 Q. It's still in your file, I believe, if you  
15 want to take a look at it.

16 A. Sure.

17 Q. I did not note any notes taken on Mr.  
18 Lacy's. Am I correct?

19 A. Yes. That's correct. It was more  
20 informational than anything, my read of it was.

21 Q. And Mr. Lacy is a fire scene investigator.  
22 Correct?

23 A. Yes.

24 Q. And you are not. Is that correct?

25 A. That's correct.

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1 Q. Is there anything contained in Mr. Lacy's  
2 report that you have evidence to refute?

3 A. No.

4 Q. Did you discuss Mr. Lacy's report with  
5 anyone?

6 A. No.

7 Q. Is the cause and origin of a fire outside  
8 of your expertise?

9 A. The -- the cause and origin investigation,  
10 yes.

11 Q. Is outside of your expertise?

12 A. Yes. My focus is strictly in the defect  
13 investigation, product liability, failure analysis.

14 Q. Let me go back to Mr. Lacy's report, and  
15 on page five, number seven, is it outside of your  
16 expertise to comment on whether or not the theory put  
17 forth by Mr. Booth is plausible?

18 A. I haven't seen Mr. Booth's report to know  
19 his theory.

20 Q. Reading number seven, the -- the subject  
21 matter and the opinion in number seven, is that  
22 outside of your expertise?

23 A. No.

24 Q. It's not outside your expertise?

25 A. No. I mean, I've got quite a -- quite a

30 (Pages 114 to 117)

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1 bit of background in heat transfer. Certainly the  
2 heat transfer aspects of that, combustion is basic  
3 mechanical engineering.

4 Q. And have you ever discussed -- and that  
5 was not included in your expert report. Correct?

6 A. That's correct.

7 Q. And is that outside of the scope of your  
8 testimony in this case?

9 A. Yes.

10 Q. Okay. And at trial do you have any  
11 intention on testifying regarding heat transfer,  
12 whether or not the theory set forth in finding seven  
13 is plausible?

14 A. Based on what's on the table today, no.

15 If we come back with a specific failure  
16 mode or mechanism that's plausible up inside of this  
17 box, for example, and start talking about heat  
18 transfer characteristics for how you can communicate  
19 that out through the box, then yes, if that were  
20 asked.

21 Q. Okay.

22 A. And if the information was made available  
23 to me to form basis.

24 Q. But that was not included in your expert  
25 report?

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1 A. It's not. I don't have the information in  
2 front of me today to -- to do that.

3 Q. Do you have any opinions other than what's  
4 contained in your expert report?

5 A. No.

6 MS. DALY: I don't have any other  
7 questions.

8 Thank you for your time.

9 THE WITNESS: Okay.

10 MR. WIGGINS: I have no questions.

11 WHEREUPON,  
12 at 4:44 o'clock p.m. the deposition was adjourned.

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# 1 CERTIFICATE OF TRANSCRIPT

2 I, Cassandra J. Stiles, Notary Public in  
3 and for the County of Forsyth, State of North  
4 Carolina at Large, do hereby certify that there  
5 appeared before me the foregoing witness;

6 That the testimony was duly recorded by  
7 me, reduced to typewriting by me or under my  
8 supervision and the foregoing consecutively numbered

9 pages are a complete and accurate record of the  
10 testimony given at said time by said witness;

11 That the undersigned is not of kin nor  
12 associated with any of the parties to said cause of  
13 action, nor any counsel thereto, and that I am not  
14 interested in the event(s) thereof.

15 IN WITNESS WHEREOF, I have hereunto set my  
16 hand this the 12th day of August, 2013.

17 Cassandra J. Stiles, CVR

18 Certified Court Reporter

19 Atlantic Professional Reporters

20 Post Office Box 11672

21 Winston-Salem, NC 27116-1672

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# 1 CERTIFICATE OF OATH

2 I, Cassandra J. Stiles, Notary Public in  
3 and for the County of Forsyth, State of North  
4 Carolina at Large, do hereby certify that there  
5 appeared before me the foregoing witness;

6 That the witness personally appeared  
7 before me at the date, time and location hereon  
8 captioned and was personally sworn by me prior to the  
9 commencement of the proceeding in the matter hereon  
10 captioned.

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand this the 12th day of August, 2013.

13 Cassandra J. Stiles, CVR

14 Certified Court Reporter

15 Atlantic Professional Reporters

16 Post Office Box 11672

17 Winston-Salem, NC 27116-1672



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## WITNESS CERTIFICATION

I, STEPHEN EDWARD STONE, hereby certify:  
That I have read and examined the contents of  
the foregoing testimony as given by me at the time  
and place hereon indicated, and;  
That to the best of my knowledge and belief,  
the foregoing pages are a complete and accurate  
record of all the testimony given by me at said time,  
except as noted on the Attachment A hereto.

I have \_\_\_ have not \_\_\_

made changes/corrections \_\_\_\_\_

Stephen Edward Stone

I, \_\_\_\_\_, Notary Public for the  
County of \_\_\_\_\_, State of \_\_\_\_\_,  
hereby certify:

That the herein-above named appeared before me  
this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and;

That I personally witnessed the execution of  
this document for the intents and purposes as herein-  
above described.

Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

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## CERTIFICATE OF MAILING

I, Cassandra J. Stiles, CVR, do hereby certify  
that a true copy of the transcription of the matter  
hereon captioned was served on the party named below  
by the placement of said transcript copy in the  
United States Mail, Priority Mail delivery, with  
proper postage affixed, addressed as follows:

Stephen Edward Stone  
Post Office Box 2368  
Morehead City, NC 28557

This the 12th day of August, 2013.

Cassandra J. Stiles, CVR

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## ADDENDUM A

Upon reading and examining my testimony as  
herein transcribed, I make the following additions,  
changes and/or corrections, with the accompanying and  
corresponding reason(s) for the same:

Page	Line	Is Amended to Read

Stephen Edward Stone

32 (Pages 122 to 124)